1793.

SUPREME COURT OF THE UNITED STATES.

No. 198.

THE UNITED STATES, APPELLANTS,

vs.

JEAN BAPTISTE DAUTERIVE AND AL.

APPEAL FROM THE DISTRICT COURT, U. S., FOR THE DISTRICT OF LOUISIANA.

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UNITED STATES DISTRICT COURT,
In and for the district of Louisiana.

HEIRS OF B. DAUTERIVE
vs.
THE UNITED STATES. } No. 63.

Be it remembered, that heretofore, to wit, on the sixteenth day of June, A. D. 1846, Jean Baptiste Dauterive, Pouponne Leblanc, and others, all residents of the State of Louisiana, appeared by their counsel, Louis Janin, esq., and filed in the office of the clerk of the said court their petition, which is in the words and figures following, to wit:

Petition filed June 16th, 1846.

To the honorable district court of the United States, for the district of Louisiana.

The petition of Jean Baptiste Dauterive, Pouponne Leblanc, the widow of Valière Dauterive, herein acting as the natural tutrix of her minor son, Valière Dauterive, the issue of her marriage with the said late Valière Dauterive, and Eleonore Dauterive and Augustin Richard, her husband, all of the parish of St. Martin; of Adeline Dauterive, the widow of Jules Noël, of the parish of Iberville; of Theodule Dauterive, Virginie Dauterive and Louis Bouligny, her husband, and Fanelie Dauterive, the widow of Felix Delery, all of the parish of Jefferson; and of Pauline Dauterive and of Samuel Legan, of the city of New Orleans, humbly sheweth:

That by an act of Congress, approved on the 17th of June, 1844, entitled "An act to provide for the adjustment of land claims in the States of Missouri, Arkansas, and Louisiana," &c., &c.; an act of Congress, approved on the 26th of May, 1824, entitled "An act to enable claimants to land within the State of Missouri and Territory of Arkansas, to institute proceedings to try the validity of their claims," was revived and re-enacted and extended to the State of Louisiana, and claimants to lands under French titles in the State of Louisiana were thereby authorized to submit their claims to this honorable court for inquiry and adjudication.

That the petitioners Dauterive are the grand children, and the minor Valière Dauterive the great grand child, and the only legal heirs of the late Jean Antoine Bernard Dauterive, who, during the latter part of the French dominion in Louisiana, was an inhabitant of said province, and a captain of infantry, and the owner of a tract of land hereafter described, and lying within the limits of the State of Louisiana.

That the said tract of land having been inherited by the petitioners, they wish to avail themselves of the aforesaid acts of Congress, and now submit their claim to the same to this honorable court, and pray that the same may be confirmed.

That the said tract of land was granted to the said Jeane Antoine Bernard Dauterive, and to one André Masse, who then were in partnership as owners of a stock-farm, by the French government of the province of Louisiana, on the 2d of March, 1765, and the said grant is recorded on pp. 180 and 181 of the record of French grants, which was delivered after the cession of Louisiana by the Spanish to the American Government, and is now deposited in the Land office of the United States, for the eastern district of Louisiana, established in the city of New Orleans.

That in said grant the land granted is described as follows: "A tract of land called 'the Vermillion prairie,' bounded to the east by bayou Tortue and Lake Tasse, on the north by certain wood lands called 'Le Mauvais bois,' on the west by bayou Vermillion, and on the south by a marshy prairie."

That on the 14th of May, 1765, the said André Masse sold to the said J. A. Bernard Dauterive his half of the said land, and of the stock-farm established thereon, whereby the said Dauterive became the sole owner thereof.

That the petitioners having, as aforesaid, inherited all the rights of the said Bernard Dauterive, they filed their claim to the same, and a notice, and statement, and evidence in support thereof in the land office for the western district of Louisiana, established at Opelousas on the 24th of January, 1837, to be reported on to the Secretary of the Treasury, and to Congress, in obedience to an act of Congress, entitled "an act for the final adjustment of claims to lands in the State of Louisiana," approved February 6th, 1835.

That the register and receiver of said land office made a report on said claim, which was transmitted to the Secretary of the Treasury of the United States on the 15th of February, 1842, and in which the said claim was recommended for confirmation to the full extent to which said confirmation had been claimed by the petitioners, but said report never was acted upon by Congress.

The petitioners herewith file a copy of said report, and also of the notice, statement, and evidence filed by them in said land office on the 24th of January, 1837, such portions of said evidence as are in the French and Spanish languages being translated into English in the copy hereto annexed; and they pray that said statement, in which all the circumstances attending said claim are fully explained, be considered and taken as a part of this petition.

The petitioners show, that it appears from said statement that the said Bernard Dauterive occupied said land as a stock-farm, for which purpose it had been granted, up to the time of his death, which occurred in 1776; that the said Dauterive left a widow and four small children; that in 1779 his widow married Jean Baptiste Degruy; that the said Degruy and his wife continued to occupy said land as a stock-farm, and to cultivate a small part thereof until 1784, when they removed to the Mississippi; that thereafter the said land, and even the stock kept thereon, were utterly neglected by said Degruy; that in con-

sequence thereof, and on account of their ignorance of said claim, the Spanish authorities in Louisiana granted a considerable, and the most valuable, part of said land to other persons; and that the petitioners, considering the good faith with which said titles were acquired, and to prevent the delays and expenses of litigation, claimed the confirmation of so much only of the aforesaid grant as was not held by titles emanating from the Spanish government and confirmed by the United States, and had not been sold or otherwise disposed of by the United States.

And the petitioners show, that they now again claim the confirmation of said grant with the same restrictions; that as the petitioners do not intend to interfere with the rights of any persons holding portions of said grant under confirmed Spanish titles, or under purchases from the United States, it is unnecessary to cite said persons; and that, besides them, there are no other persons in possession of portions of said grant except certain settlers, who occupy small parts thereof with the written consent of the petitioners.

Wherefore the petitioners pray, that the United States of America, by their district attorney for the district of Louisiana, be cited; that the aforesaid grant be declared valid and confirmed to the petitioners; that thereafter the surveyor general of the United States for the State of Louisiana be ordered to survey said lands; that he be further ordered to certify, on the plats and certificates of said survey, what parts of said grant are held under confirmed Spanish titles, and what part, if any, of said grant has been sold by the United States, together with the quantity thereof. And the petitioners further pray, that it may be decreed that they, their heirs and legal representatives, shall have the right to enter the quantity of land so certified to have been sold or disposed of by the United States in any land office in the State of Louisiana.

(Signed) L. JANIN, *of counsel.*

And the foregoing petition was thus endorsed:

Service accepted, and copy of the petition required. New Orleans, 16 June, 1846.

(Signed) S. W. DOWNS, *U. S. Attorney.*

And afterwards, to wit, on the tenth of November, A. D. 1846, the following answer was filed of record in the clerk's office by Thomas J. Durant, attorney of the United States for the district of Louisiana

Answer, filed November 10th, 1846.

DAUTERIVE vs. THE UNITED STATES. } No. 63.

In the district court of the United States, for the district of Louisiana.

The defendants now come, and for answer deny all and singular the facts and allegations of plaintiffs' petition. Wherefore they pray to be hence dismissed.

(Signed) THOMAS J. DURANT, *Attorney U. S.*

And afterwards, to wit, on the twenty-third day of June, A. D. 1847, the respective parties appeared by their counsel, and filed the following consent of record:

Consent as to the documents offered in evidence by the plaintiffs, filed June 23d, 1847.

HEIRS OF DAUTERIVE vs. THE UNITED STATES. } No. 63.

The plaintiffs give in evidence:

1*o*. Document A, marked by the commissioner on the 24th April, 1847, and all the documents composing the same.

The said documents are:

a. The notice of the heirs of Bd. Dauterive to the register and receiver of the western district of Louisiana, signed by Louis Bouligny, as agent for the plaintiffs.

b. Copy of concession to Dauterive and Masse.

c. Sale from Masse to Dauterive.

d. Affidavit of André Ducatel.

e. Claim of André Masse against Bernard.

d. Inventory of the estate of André Masse.

c. Certificate of Judge King.

f. Certificate of Judge Briant.

g. Affidavit of Lamauraudier.

h. Affidavit of Charles Olivier.

i. Affidavit of Barthelemy Pellerin.

j. Affidavit of J. B. Degruy.

k. Report of possession given to Dauterive, &c.

l. Certificate of the register of the land office at Opelousas, showing that all the preceding documents were filed in said land office on the 20th of January, 1837.

m. Plan by Laveau Trudeau.

2. *B*. Being a sketch of the claim referred to in the testimony of John Moore, Charles Fagot, and other witnesses.

3. *C*. Copy of a document being part of the intestate proceedings of André Mase, and referred to in the testimony of Victor St. Victor, and Amedée Ducatel.

4. *D*. Report of the register and receiver of the land office at Opelousas, on the claim of the petitioners.

The above documents are admitted in evidence.

New Orleans, June 23d, 1847.

(Signed) LOUIS JANIN,
Attorney for plaintiffs.

(Signed) THOMAS J. DURANT.
Attorney of the United States for the district of Louisiana.

United States vs. Dauterive et al.

Evidence—Document A.

To the register and receiver of the land office of the Western district of Louisiana.

Notice of the heirs of Bernard Dauterive.

Jean Baptiste Dauterive, Valery Dauterive, and Eleonore Dauterive, wife of Augustin Richard, all three of the parish of St. Martin; Adeline Dauterive, widow of Jules Noel, of the parish of Iberville; Theodule Dauterive, Virginie Dauterive, wife of Louis Bouligny, and Fanelie Dauterive, wife of Felix Dolery, all three of the parish of Jefferson; and Pauline Dauterive, wife of Samuel Logan, of the Parish of St. Charles, claim as the grandchildren and only heirs of the late Jean Antoine Bernard Dauterive, the confirmation of a complete grant made by the French government of Louisiana, to the said Dauterive and his partner Masse, on the 2d of March, 1765.

A certified copy of the grant taken from the record of French concessions in the land office at New Orleans, is annexed and numbered 1.

This grant is for an extensive tract of land in Attacapas, called "the Vermillion prairie," bounded at the north by the "mauvais bois," a well known piece of low wood-land between bayou Teche and Vermillion; on the east by lake Tasse and bayou Tortue, on the west by bayou Vermillion, and on the south by the salt marsh, boarding on the sea.

A very great, and by far the most valuable, part of the grant is now held under adverse titles, emanated from the Spanish or American governments; the claim had long been neglected, owing to the peculiar situation of the heirs, which will be explained hereafter; they however renounce their rights to any part of the land, to which a title has been obtained, either from the former or the present government, and intend to claim, in the proper place, a compensation for so much of it as has been sold by the United States.

Though such conflicting claims would in law have to yield to an anterior grant, still abundant experience has shown, that they in reality greatly obstruct and retard the settlement of the most unquestionable claims, and the claimants have preferred the speedy enjoyment of a portion of their property to annoying and expensive law suits for the whole. This remaining part, though still of considerable extent, is of a very inferior quality, being exclusively prairie land.

The decision of the claim thus disembarrassed of all opposing pretensions will, it is hoped, present no difficulty.

It appears, from the terms of the grant, that it was made to Dauterive & Masse jointly, who then were partners in a stock farm, but Masse's interest, both in the land and in the vacherie they had established on it, were soon afterwards acquired by Dauterive. The sale was of the 14th of May, 1765, by an act under private signature, executed in the presence of witnesses, for 2,500 livres, payable in 4 terms, to secure which Masse reserved a mortgage. The original of this act has been lost, but its absence is supplied by satisfactory proof. Under No. 2 will be found

a copy of it, entirely in the handwriting of Masse himself. On the back of it is written, "copie de l'acte de la vente de la vacherie des Attakapas, collationnée à l'original." It therefore seems that it was made by Masse for his own use, and it was most likely obtained after Masse's death in 1772, from the persons who had charge of his estate, at the request of Bernard Dauterive, who had lost the original. Of this the present claimants have no certain knowledge, nor is that material; they have found it in the papers of the late Marigny Dauterive, one of Bernard D's sons, who had undertaken the management of this business. There is not now, nor has there probably been for many years past, a person living acquainted with the handwriting of André Masse, but, among the proceedings in Masse's estate, which were carried on in 1772, and the following years, at New Orleans, before the governor, and which are still preserved in the office of Octave de Armas, notary public, a paper is to be found, evidently entirely written and signed by Masse. It is a petition to Governor O'Reilly for permission to emancipate his slaves. This paper has been attentively compared with the copy No. 2 by persons of respectability, whose business has rendered them good judges of handwritings, and they unhesitatingly state that both those papers are in the same handwriting. See the affidavits of Amedée Ducatel and Victor St. Victor, No. 3.

Another proof of this sale, and which alone would be sufficient, results from document No. 4. This is an opposition made by Masse on the 16th of October, 1770, to the seizure of the vacherie, which two of Dauterive's creditors attempted to make. Masse states that Dauterive still owed him a balance of 2,500 livres, on the price of the stock and vacherie, and claims to be paid by preference as vendor. The original of this paper, as appears from the certificate annexed to it, was formerly in the office of the commandant of Attakapas, from which, however, like many other papers, it has been lost. The copy now produced is, however, an official one, and entirely in the handwriting of, and delivered on the 30th of September, 1776, by the commandant, De Clouet, whose handwriting is no doubt perfectly known to the board. The date of this copy, posterior by some months to Dauterive's death, leads to the conclusion that the heirs took it out to supply the loss of the original sale.

Under No. 5, the inventory of the estate of André Masse will be found made on the 20th of May, 1772, by the commandant, Fusilier de la Claire. His property is minutely inventoried; 5 witnesses are present, who were no doubt his neighbors, and best acquainted with his circumstances, but no mention is made of any land in Vermillion prairie; the commandant and the witnesses no doubt knew that he had sold it. But what is really found is a promissory note of Dauterive to Masse's order, for 2,545 livres, which amount very nearly agrees with what Masse, in his preceding opposition, stated to be due to him on the stock farm. If to these proofs it be added that no sale from Masse to any person is now to be found in Attacapas or Opelousas, (see Judge King and Judge Briant's certificates, Nos. 6 and 7,) and that the land

and vacherie in Vermillion prairie were always known to belong to Dauterive, and not to Dauterive and Masse, (affidavits of De la Morandier, A. Fuselier, Charles Olivier, Pelerin, J. Bte. Degruys, Nos. 8, 9, 10, and 11,) and the positive declaration of this last named aged witness, that Masse had sold to Dauterive, it may safely be affirmed that this sale is as well proved as if a notarial act had been produced.

The next subject to which it will be necessary to call the attention of the board are the obligations imposed to Dauterive and Masse by the grant. The concession was made "in consideration of the abandonment they make to the newly arrived Acadian families of the lands which they have long been occupying in Attacapas," and they are required to abandon all claim to those lands, and to establish a stock farm on their new grant within a year.

All this has been strictly complied with.

Jean Baptiste Degruys (No. 11) states, that already previous to 1765 Dauterive and Masse had extensive lands and a large stock farm in Attakapas, on bayou Teche, about 2 leagues above the church. When the Acadians arrived they permitted a number of them to establish themselves on their lands, and gave to each of these families 6 cows and a bull. But Dauterive and Masse had a great many heads of wild cattle, and as they increased in number they became troublesome to the Acadians, who finally laid their complaints before the governor. To put an end to these constant difficulties, Dauterive and Masse offered to abandon their lands to the Acadians, and to take other lands, the Vermillion prairie, in exchange. Thus they obtained the new grant, to which they immediately removed their vacherie, shortly after which Masse sold to Dauterive. It is proper here to explain how Degruys obtained a knowledge, and still retains an accurate recollection, of those distant transactions. This witness is now 86 years of age, and still remarkable for a very retentive memory. He knew Dauterive personally, and in 1779 he married Dauterive's widow in Attakapas. In those early times he resided, during many years, in Attakapas, and his connexion with Dauterive's widow and children made him necessarily acquainted with their family concerns, and imprinted them upon his memory.

All the circumstances of the claim, with which the board are already acquainted, render it self evident that Dauterive and Masse abandoned in deed, as they were bound to do, their lands on bayou Teche to the Acadians. They offered the exchange themselves; they received and took possession of the land which they had demanded as a compensation. It was neither morally nor physically possible for them to retain, at the same time, their former lands; such a supposition is too absurd to be for a moment entertained. Neither the public authorities, nor, least of all, the Acadians, who by the exchange became the proprietors of the lands on the Teche, would have tolerated it. When Dauterive bought Masse's land he bought his interest in the Vermillion prairie; for, to the land on bayou Teche, Masse had no longer any title. Nor would Dauterive's creditors, during his temporary embarrassment, have at-

tempted to seize his Vermillion property if his right to it had not been fully vested. If they had retained their land on the Teche, they or their heirs would have sold it.

But there is no sale whatever from either Dauterive or Masse in the records of Attacapas or Opelousas; (see certificates by Judges King and Briant, Nos. 6 and 7; the only tract which Masse owned at the time of his death is that mentioned in the inventory No. 5, of a league square on the lower Teche, (near Sorel's;) no claims have ever been filed in this land office which was vested in Dauterive or Masse, by grant or purchase, anterior to 1765. There are, indeed, confirmations to the land in the immediate vicinity of St. Martinsville, under a concession to Dauterive; but this was an incomplete grant, made on the 7th of December, 1775, under which the claimants set up no further demand; and to leave no doubt on this subject, the claimants annex a certified copy of this incomplete title, and of Laveau Trudeau's survey of it, Nos. 12 and 13.

It is therefore clear that the titles which Dauterive and Masse had to lands in Attacapas previous to 1765 have disappeared, without leaving a trace, and that the Acadians were never afterwards disturbed by them.

If, then, it has been shown that they abandoned the land on the upper Teche as soon as their requête for the Vermillion prairie was granted, it would, even without evidence, be a natural inference that they removed their stock-farm to their new lands. This and the great extent of the vacherie is stated by Degruys, and some opinion of it may be formed by the price of 25,000 livres—no inconsiderable sum in Louisiana at that time, and into which the land entered no doubt for very little, for it was then thought of no value, and it cost only the trouble of asking. Masse's league square on the lower Teche, with cabins and other improvements, was sold, in 1772, for $10, (to Sorel.) Degruys says that Dauterive had 3 or 400 heads of tame, and several thousands of wild, cattle in his vacherie. After his marriage with the widow, Degruys kept it up for some time; had people to look after the stock, and cultivated some portion of the land. It is stated by Agricole Fusilier that there is no one now living in Attacapas old enough to have a personal knowledge of these matters. Degruys is, therefore, the only contemporaneous witness whose testimony it is in the power of the claimants to offer. But they are still enabled to prove that many years ago it was a fact of general notoriety that Dauterive had a large vacherie in the Vermillion prairie, and extensive lands in that place. See the affidavits of Charles Olivier, No. 9; Loubry Pellerin, No. 10; and Robert de la Moraudier, No. 8.

Agricole Fusilier states the names of two persons, now deceased, who were in Dauterive's employ as stock-gatherers. His affidavit has been taken in Attacapas, and he has promised to send it to the board. The existence and extent of the vacherie are, moreover, attested by the sale of it in 1765, and by Masse's opposition to its seizure in 1770. (See above,) Nos. 2 and 4.

After Dauterive's death it was greatly neglected; the cattle became

wild, and, as all the witnesses state, the inhabitants were greatly annoyed by them, and went out in parties to kill them. It was then said that they came from Dauterive's vacherie. It is therefore certain that Dauterive complied with the requirements of the grant, by abandoning his former possessions to the Acadians, and by establishing a vacherie on his new grant.

This grant, the board will observe, is a complete one; no act of the sovereign remained to be done, and the title to the land was fully vested in Dauterive. A confirmation of such a title is, therefore, not necessary, but it may be useful. It is apparent, from the acts of Congress on this subject, that they never asserted the right to annul, restrict, or question any genuine complete grant which had been made by the former government. By the 4th section of the act of the 2d of March, 1805, (Land laws, p. 519,) claimants under incomplete titles are required to file their claims, under certain penalties; of claimants under complete titles, it is only said that they may file them. It is not made a duty, but left optional. By the 5th section of the same act, the register and receiver were directed to make a report "on all complete French and Spanish grants," the evidence of which, though not thus filed, may be "found on record in the public records of such grants." It is evident that a report on such grants was required for the purpose of ascertaining what lands had ceased to belong to the public domain. If the intention of Congress had been to subject these claims to their scrutiny, they would have required of the owners to file them. If the board, on finding in the public records the evidence of a complete grant, could have made any other but a favorable report on it, Congress would never have permitted such an ex parte decision; the board were to decide merely on the recorded proof, that is, the official copy of the grant, and were to consider it as conclusive evidence. It has accordingly been decided, both by the supreme court of this State and of the United States, that a complete grant is complete evidence of title, without any confirmation. White vs. Wells' Heirs, 5 Mart. Rep., 653; Gonsonlin's Heirs vs. Brashear, 5 N. S., 35; United States vs. Arredondo & al., 6 Peters' Rep., 625; United States vs. Percheman, 7 Peters' Rep., 88.

The claimants are perfectly aware that Congress have long refused to confirm claims exceeding a league square. This restriction was made on the supposition that, as O'Reilly's well known regulations directed that no larger concessions should be made, his successors had exceeded their authority in making more extensive grants. Further experience, and the elaborate investigations of the Supreme Court of the United States, have shown that O'Reilly's regulations were made for the guidance of the lieutenant governors, &c., and were not binding upon his successors, whose powers were co-extensive with his. 6 Peters' Rep., 728, to vol. 8, p. 459, and vol. 9, p. 118, 760. Accordingly, in the later acts of Congress, referring French and Spanish claims to the decision of commissioners, this restriction is not to be found, and many larger claims have since been confirmed. The com-

missioners, in deciding on the genuineness and validity of a claim, can no longer take its extent or limits into consideration.

But the previous opposition of Congress to large grants was based, as has been stated, on O'Reilly's regulations; and the long disputed question was, whether they were binding or not on his successors. But no ground for refusing the confirmation of a large French grant has ever been stated; it never was, nor could it be pretended, that their power was limited by any regulations. The claimants, therefore, believe that, under the treaty of cession, and under the existing laws, the confirmation of this claim can suffer no difficulty; and they are desirous to obtain it, as it will prevent the inconvenience inevitable if the land were treated, however illegally, as public; and as it is important, for the use and disposal of the land, that it should be generally known that they have a good title, and that this title has been acknowledged. For this reason, they have not contented themselves with the production of the grant, but have entered into a full examination of the history of the claim. It ought to be added, that Degruys' affidavit sufficiently explains how it was that the claim was so neglected for many years, that even the Spanish government, forgetting or ignorant of its existence, granted some of the lands, particularly the fronts of the water-courses, anew. Dauterive died in 1776, leaving four small children. The widow was married to Degruys in 1779; they remained in Attacapas until 1784, and then removed permanently. Then Degruys abandoned even the cattle, a very available property; allowed them to become wild; to be killed by the inhabitants; it is, therefore, not astonishing that he took no trouble for maintaining and securing the rights of his step-children to the land, which then was of very little value, or rather of none at all. The family afterwards increased, its members were dispersed, the papers of Dauterive were probably long in Degruys' hands, who did not even attend, as he states in his affidavit, to the confirmation of his own titles; an imperfect recollection of the rights of the family was indeed preserved by its members, but it is not until about 20 years ago that effective steps were taken, though without any result, to procure the settlement of this business. In 1821, family meetings were held to authorize those of the heirs residing in New Orleans, and in the parish of Iberville, who were minors, to compromise with the persons who had taken possession of part of the land under adverse though inferior titles; the late Mr. Livingston was then employed to prosecute the claim; he procured the assistance of other lawyers; the claim was laid and urged before Congress, but no progress was ever made; and, indeed, Mr. Livingston confined himself to writing now and then a letter, repeating his assurance that he would use his best exertions, and expressing his hope of soon obtaining a favorable decision. For the satisfaction of the board, the deliberations of the family meetings, and a number of letters by Mr. Livingston, are herewith transmitted, though it is quite unnecessary to mention their substance at greater length, or to record them.

In conclusion, the claimants repeat that they wish, though at a great sacrifice, to avoid opposition and the consequent delay, and that they

do not intend to disturb any person who has obtained a title to portions of the land, within the limits of their grant, either from the Spanish or the American Government.

(Signed) LOUIS BOULIGNY,
Agent of the heirs of Dauterive.

No. 1.

Land office, eastern district of Louisiana.

Charles Philippe Aubry, chevalier de l'ordre royal et militaire de St. Louis, commandant pour le roi à la Louisiane, et Denis Nicolas Foucault, faisant les fonctions d'ordonnateur en cette province.

Sur la demande que les Sieurs Dauterive et Massé, associés, nous ont faite, de leur concéder une terre appelée la prairie du Vermillion, bornée à l'est par la rivière des Tortues et le lac du Tasse, au nord par le Mauvais Bois, à l'ouest par la rivière du Vermillion, et au sud par une prairie Vaseuse; vû leur requête en l'autre part et ci-dessus, et en considération de la cession qu'ils font, aux familles acadiennes nouvellement arrivées en cette province, de la terre qu'ils occupent depuis long-temps dans la partie des Attakapas, et des avantages qui résulteront pour cette capitale du grand établissement en vacherie qu'ils se proposent de faire sur la dite terre appelée la prairie du Vermillion, par les fournitures de bestiaux qu'ils seront en état d'y faire sous peu de temps, nous leur avons concédé et concédons par les présentes la dite terre, pour par eux, et leurs hoirs et ayant causes, en jouir et disposer en toute propriété et usufruit, comme de chose à eux appartenant, sauf des titres en possession antérieure á ce contraire; bien entendu qu'elle est en deçà des limites qui peuvent avoir été fixées des possessions françaises et espagnoles dans cette partie, et qu'ils nous remettront les titres de propriété de la terre qu'ils cèdent aux familles acadiennes; aux conditions que sous un an de ce jour ils y formeront le dit établissement, à défaut de quoi elle sera remise au *donnant* du roi, qui pourra en disposer comme si la présente concession n'avait pas été accordée, et à la charge de payer les droits seigneuriaux, si quelques-uns sont par la suite établis en cette colonie. Nous en réservons d'ailleurs, pour Sa Majesté, tous et chacuns les bois nécessaires pour construction de forts, magasins et autres ouvrages qu'elle a ordonnés ou ordonnera à l'avenir, même pour le radoub et carène de ses vaisseaux, toutes fois et quand il en sera besoin, ainsi que le terrain néccssaire pour chemins royaux et fortifications.

Donné à la Nouvelle-Orléans, sous les sceaux de nos armes et les contreseings de nos secrétaires, le deux Mars, mil sept soixante-cinq.

(Signé) AUBRY ET FOUCAULT.

(Contresigné) SOUBIE ET DUVERGE.

Livre 1, fo. 180 et 181.

REGISTER'S OFFICE, *New Orleans:*

I, B. Z. Canonge, register of the land office at New Orleans, do hereby certify the foregoing patented concession to be a true copy, taken

from the records now in my possession, and forming part of the archives of this office.

In faith whereof I hereunto subscribe my name, this 9th day of February, 1836.

(Signed) B. Z. CANONGE, *Reg'r.*

Translation of the foregoing document No. 1.

LAND OFFICE, *eastern district of Louisiana:*

Charles Philippe Aubry, chevalier of the royal and military order of St. Louis, commanding for the King in Louisiana, and Denis Nicholas Foucault, being the intendant commissary of this province of Louisiana.

Upon the demand made by Messrs. Dauterive and Masse, partners, to grant to them a parcel of land named la prairie du Vermillion, bounded east by the river des Tortues and the Lake du Tasse, north by the Mauvais bois, west by the river Vermillion, and south by a muddy prairie, considering their petition above, and in other part, and for consideration of the cession made by them to the Acadian families, recently arrived in this province, of the land occupied by them during a long period, in the Attakapas, and in consideration also of the advantages which may result for this capital of the great establishment in vacheries that they propose themselves to do on the said land named la prairie du Vermillion, by the quantity of cattle they may bring to market in a short period, we have conceded, and do concede, to them by these presents, the said land, for them and their heirs to enjoy and dispose of the same in full ownership and usufruit, as a thing belonging to them, except against titles or possession anterior to these to the contrary; provided that said land lies on this side of the limits which have been established of the French and Spanish possessions in this part of the country; and provided, also, that they do deliver to us the titles of the land which they have ceded to the Acadian families, and also under the conditions that one year from this date they shall establish the said vacherie; in default whereof the said land shall become part of the King's domain, who may dispose of the same as if the said concession had never been granted, and also with the burden by them to support and pay the Seigneurial rights, if any hereafter be established in this colony. We also reserve for his Majesty all the timber necessary for the construction of forts, stores, and other public works that he has ordered to be done, or may order in the future, even for the refitting and careen of his men-of-war, whenever the same will be necessary; and also the necessary ground for the royal highways and fortifications.

Given in New Orleans, under the seals of our arms and the countersign of our secretaries, the second of March, one thousand seven hundred and sixty-five.

Signed, AUBRY AND FOUCAULT.

Countersigned—SOUBIE & DUVERGE.

Book 1, folio 180 and 181.

I do hereby certify, that the foregoing is a true and correct translation of the original in French, No. 1, annexed to document marked A, No. 63.

(Signed) LS. DUVIGNEAUD,
U. S. interpreter.

Endorsed—"Copie de l'acte de la vente de la vacherie des Attacapas, collationnée à l'original."

No. 2.

Vente de Massé à M. B. Dauterive, 14 *May* 1765.

Nous, soussigné, André Massé, certifie avoir vendu et cédé dès à présent, à Mr. Dauterive, cap'ne d'infanterie, toute ma part de la vacherie que j'avais en société avec mon dit sr., ainsy que tous les chevaux, jumens, poulains, moutons et cochons, avec la terre et bâtimens, ainsi qu'elle se comporte, pour le prix et somme de vingt-cinq mille livres, payable en quatre années, savoir: sept mille livres à la fin de cette présente année, et six mille par chaque année jusqu'à parfait payement. Mon dit sr. Dauterive s'oblige en outre de le tenir quitte de toutes les dépenses qu'il aurait pu faire jusqu'à ce jour, pour le compte de la société; et, pour sûreté du payement, mon dit Sr. Dauterive hypothèque tous ses biens présens et à venir, et spécialement la dite vacherie. Voulons que ce présent avis, fait double, ait autant de valeur que s'il eût été passé pardevant notaire, étant fait de bonne foy entre nous, en présence des témoins soussignés.

Aux Attacapas, le quatorze May, mille sept cent soixante-cinq.

Bien entendu que les vingt-cinq mille livres spécifiés cy-dessus sont argent réel.

JEAN FRANCOIS SOREL.

BERARD,
LA GREGE,
Témoins.

Translation of the foregoing document No. 2.

We, the undersigned, Andre Masse, certifies having sold and ceded, now to Mr. Dauterive, captain of infantry, all my portion in the vacherie which I had in partnership with the said Dauterive, together with all the horses, mares, colts, sheep, and hogs, with the land and improvements thereon as they stand, for the price and sum of twenty-five thousand pounds, (livres,) payable in four years, to wit, seven thousand pounds (livres) at the end of this present year, and six thousand pounds (livres) every ensuing year till final payment; the said Dauterive binds himself, besides, to give him a full discharge of all the expenses which he may have caused to be made till this day for the account of said partnership; and, to secure the payment, the said Dauterive *do* mortgage all his properties present, and to be owned in the future, and specially the said vacherie. It is our wish and will that this present sale, done in duplicate, have as much value *that* if it had been passed before a

notary, being made in good faith between us, in presence of the undersigned witnesses.

Attacapas, the fourteenth May, one thousand seven hundred and sixty-five.—It is well understood that the twenty-five thousand pounds (or livres) above specified are real money.

JEAN FRANÇOIS SOREL,
BARARD,
LAGREGE,
Witnesses.

I certify the foregoing to be a true and correct translation, from the French, of document No. 2.

(Signed) LS. DUVIGNAUD,
U. S. Interpreter.

Affidavit of Amedée Ducatel and of Victor St. Victor, in relation to the foregoing deed of sale, No 3.

STATE OF LOUISIANA, *parish of Orleans:*

Amedee Ducatel, being duly sworn, deposes, that he has examined, and has now before his eyes, a paper, of which the following is an exact and literal copy:

Nous, soussigné, André Massé, certifie avoir vendu et cédé, dès à présent, à Mr. Dauterive, cap'ne d'infanterie, toute ma part de la vacherie que j'avais en société avec mon dit sieur, ainsi que tous les chevaux, jumens, poulains, moutons et cochons, avec la terre et bâtimens, ainsi qu'elle se comporte, pour le prix et somme de vingt-cinq mille livres, payable en quatre années, savoir: sept mille livres à la fin de cette présente année, et six mille par chaque année jusqu'à parfait payement. Mon dit Sr. Dauterive s'oblige en outre de le tenir quitte de toutes les dépenses qu'il aurait pu faire jusqu'à ce jour, pour le compte de la dite société; et, pour sûreté du payement, mon dit Sr. Dauterive hypothèque tous ses biens présens et à venir, et spécialement la dite vacherie. Voulons que ce présent écrit, fait double, ait autant de valeur que s'il eût été passé pardevant notaire, étant [fait de bonne] foy entre nous, en présence des témoins soussignés.

Aux Attacapas, le quatorze May, mille sept cent soixante-cinq.

Bien entendu que les vingt-cinq mille livres spécifiés cy-dessus sont argent réel. JEAN FRANCOIS SOREL.

BERARD,
LA GREGE,
Témoins.

Deponent further says that the said paper has on its outside the following endorsement:

"Copie de l'acte de la vente de la vacherie des Attacapas, collationnée à l'original."

Deponent further says that the whole of the said paper, including the endorsement, is in the same handwriting.

Deponent has also examined another paper, to be found in a record entitled "Año 1772, intestado de Andre Masse," and now preserved in the office of Octave de Armas, a notary public in this city, as part of the notarial records of the late Andres Almonaster y Roxas. The said record contains evidently the proceedings had in 1772, and the following years for the settlement of the estate of Andre Masse, of Atacapas. The above mentioned paper, which deponent has particularly examined, is a petition in French, on a large sheet of paper, addressed by Andre Masse, on the of , 1769, to Governor O'Reilly for permission to emancipate his slaves. The whole of it is unquestionably in the same handwriting as the signature "Masse," and it is apparent that the whole of it was written by the petitioner, Masse, himself. Deponent has attentively compared this last mentioned paper with the one dated the 14th of May, 1765, purporting to be a sale from Masse to Dauterive, which has been copied into this affidavit.

Deponent believes, and indeed he has no doubt, that both those papers are entirely in the same handwriting. Deponent is a notary public, and, before his appointment to that office, has been employed during a number of years in a notary's office. In the course of his business he has had occasion to see and examine a great number of different handwritings, and believes that these opportunities have given him some skill in discriminating handwritings.

(Signed) AMEDEE DUCATEL.

Sworn to and subscribed before me, by Amédée Ducatel. New Orleans, January 17, 1837,

(Signed) EDWARD RAWLE,
Judge of the city court.

Victor St. Victor being duly sworn, deposes that he has attentively examined the two writings mentioned and described in the preceding affidavit of Amédée Ducatel, esq.; the handwriting of both of them, as well as the signature of the one which is signed "Andre Masse," are perfectly similar; deponent believes that they are in the same handwriting; deponent has long been engaged in commercial business and in banks, and has had occasion to examine many handwritings.

(Signed) VR. ST. VICTOR.

Sworn to and subscribed before me, New Orleans, this 19th of January, 1837.

(Signed) EDWARD RAWLE,
Judge of the city court.

No. 4.

16*th Oct'r*, 1766.—*Opposition of A. Massé to the sale of Dauterive's property.*

Aujourd'hui, seize Octobre, mille sept cent soixante- , et pardevant nous, commandant des Opelousas, et en présence des Srs. Louis Grevembert, Jean Berard et François Verret, est comparu le St. André Massé, habitant des Attakapas, lequel nous a déclaré que, Mons. Dau-

terive lui redevant environ deux mille cinq cent livres pour sol'r des payements des bestiaux et de sa vacherie située au dit lieu des Attakapas, il s'oppose à la saisie que les Srs. Poinet et Antoine Barnabé ont obtenue, et demande à être payé par préference; de laquelle opposition je lui ai donné acte, en présence des témoins ci-dessus nommés, lesquels ont signé, avec nous les susdits, au mois et jour que ci-dessus.

LOUIS GREVEMBERT,
JEAN BERARD,
FRANCOIS VERRET,
FUSELIER DE LA CLAIRE,
MASSE.

Je certifie la présente copie conforme à l'original, resté dans les papiers de ce commandement.

Attakapas, ce 30 S'bre, 1776.

(Signed) LE CH'ER DE CLOUET.

No. 4.

Translation of the foregoing document.

This day, sixteenth of October, one thousand seven hundred and sixty, (the last word illegible,) before me, commandant des Opelousas, and in presence of Messrs. Louis Grevembert, Jean Bérard, and François Verret, has appeared Mr. André Massé, inhabitant of Attakapas, who has declared to us that Mr. Dauterive is indebted unto him about two thousand five hundred pounds, (livres,) being a balance left on the payment of cattles and of his vacherie, situated at the said place of Attakapas; he makes opposition to the seizure that Messrs. Pomet and Antoine Barnabé have obtained, and prays to be paid by preference; of which opposition, I have given him act, in presence of the after named witnesses, who have signed with us on the aforesaid month and day above mentioned.

LOUIS GREVEMBERT,
JEAN BERARD,
FRANCOIS VERET,
FUSELIER DE LA CLAIRE,
MASSE.

I certify the foregoing to be a true copy taken from the original, deposited in the papers of this commandement, Attakapas, this 30th September, 1776.

(Signed) LE CHER. DE CLOUET.

I certify the foregoing to be a true and correct translation from the French of document, marked No. 4.

(Signed) LS. DUVIGNAUD,
U. S. interpreter.

Inventory of the estate of André Massé.

L'an mille sept cent soixante-et-douze, et le vingt du mois de May, à neuf heures du matin, aux Attakapas, sur la rive occidentale de la rivière Teichte, proche les grands lacs des Chitimachas, nous, Gabriel Fuselier de la Claire, commandant du district, assisté des Srs. Augustin

Grevemberg et Jacques Vories, nous sommes transportés à l'endroit appelé Belmont, à l'effet de procéder à l'inventaire, description et appréciation des biens délaissés par le dit Sieur André Massé, mort ab-intestate, où étant, et en présence de Thomas Acken, Joseph Colette, Claude Boutté, Martin Pok, Jean Baptiste Lemoyne, nous avons commis d'offrir les dits Claude Boutté et Joseph Colette pour estimer et apprécier les dits biens, ce qu'ils ont accepté, et fait serment par Dieu, notre Seigneur, et le signe de la sainte croix, de faire la dite appréciation bien et fidèlement en leurs âmes et consciences, suivant l'occurrence des temps. Ce fait, les biens nous ayant été représentés par [le] nommé André, nègre affranchi et domestique du dit défunt, [nous] avons procédé au dit inventaire et estimation, ainsi qu'il en suit:

Premièrement: Une habitation, avec titres en forme, d'une lieue quarrée sur la rive occidentale du Teichte, sur laquelle il y a dix mauvaises cabanes, un jardin entouré de barrières, un petit enclos, un parc pour le bétail; laquelle habitation a été donnée aux nègres du dit défunt par un écrit sous seing privé, et nous paraît être nul, se trouvant contraire aux loix et coutumes du royaume; la dite habitation, avec toutes les bâtisses qui sont dessus, a été estimée à la somme de quarante piastres - - - - - P. 40

Item: Une chaine en chapelet, pour l'usage des indigoteries, toute neuve et sans aucune charpente, avec les pivots, crapaudines, pelles, tourillons, a été estimée cinquante piastres P. 50

Item: Dix pioches et quatre haches, bonnes et mauvaises, ont été estimées six piastres - - - - - P. 6

Item: Un passe-partout, un couche à pieux, deux coins de fer, outils, estimés trois piastres - - - - P. 3

Item: Un grand chauderon [de] cuivre rouge et [en] un de cuivre jaune ont été estimés ensemble vingt piastres - P. 20

Item: Deux trépieds de fer ont été estimés, avec une broche, deux piastres - - - - - - P. 2

Item: Onze dame-jeannes vides ont été estimées ensemble huit piastres - - - - - - P. 8

Item: Deux volumes de la Maison Rustique, vieux et en parchemin, déchirés, ont été estimés quatre réaux - - R. 4

Item: Quatre mauvaises culottes et quatre mauvaises chemises ont été estimées une piastre - - - - - P. 1

Item: Une vieille tabatière à écaille garnie, deux rasoirs, une pierre et un cuir pour les repasser ont été estimés ensemble deux piastres - - - - - - P. 2

Un portrait en miniature de Mademoiselle Massé, monté ou couvert de chagrin, a été mis ici pour mémoire.

Item: Un petit couteau fermant, monté en or ou argent doré, a été estimé une piastre - - - - - P. 1

Item: Une petite boussole en cuivre a été estimée quatre réaux R. 4

Item: Un nègre, nommé Petit-Jean, créole du Cap, a été estimé quatre-vingt piastres, âgé de cinquante ans - - P. 80

Item: Un nègre, nommé Seganba, a été estimé cent piastres, âgé de quarante-cinq ans - - - - - - P. 100

Item: Un sauvage, nommé Jasmin, à qui le défunt par un écrit signé de sa main a donné la liberté, a été mis ici pour mémoire.

Item: Un sauvage, nommé Aginzi, âgé de vingt ans, à qui le défunt a donné la liberté sous seing privé et sans l'approbation de Mr. le gouverneur, a été mis ici seulement pour mémoire.

Item: Il a été trouvé dans un petit sac soixante-et-cinq piastres, ci - - - - - - - - P. 65

Item: Un mauvais coffre, fermant à clef, a été estimé quatre réaux - - - - - - - - R. 4

Item: Un mauvais matelas, avec un vieux moustiquaire, a été estimé deux piastres - - - - - - P. 2

Item: Un mauvais capot et une robe de bœuf ont été estimés une piastre - - - - - - - P. 1

Et, attendu qu'il est midy sonné, nous avons suspendu la présente diligence, pour la continuer à deux heures de relevés, et les biens ci-dessus inventoriés laissés à la garde du nommé Thomas Acken, qui s'en est chargé pour les représenter lorsqu'il en sera requis, et avons signé avec les parties et estimateurs.

(Signé) BOUTTET,
AUGUSTIN GREVEMBERG,
SORIES,
COLLETTE,
MARTIN POK,
LEMOYNE,
THOMAS ACKEN,
FUSELIER DE LA CLAIRE.

Et les dits jour et an que ci-dessus, à deux heures après-midy, en présence des témoins dénommés, et avec les dits estimateurs, [nous] avons procédé à la continuation du dit inventaire, ainsi qu'il ensuit:

Premièrement: Les ferremens d'une vieille charrue ont été estimés six piastres - - - - - - P. 6

Item: Les bestiaux, quoique donnés aux nègres libres par un écrit de la main du défunt André Massé, ont été inventoriés et estimés pour mémoire seulement, afin de prévenir toute difficulté en cas de litige. Il s'est trouvé au parc six paires de bœuf de tire, estimés ensemble cent quatre-vingt piastres - - - - - - - - P. 180

Item: Neuf vaches et trente génisses, d'environ six et deux ans, ont été estimées ensemble cent cinquante piastres - P. 150

Item: Trente bouvards et vingt-neuf taureaux, également donnés par écrit aux susdits affranchis, ont été estimés ensemble deux cent quatre-vingt-quinze piastres - - P. 295

Item: Quatre mauvais chevaux de monture ont été estimés ensemble seize piastres - - - - - P. 16

Item: Trente moutons et brebis, donnés par écrit aux dits nègres, rapportés ici pour mémoire, ont été estimés ensemble quarante-cinq piastres - - - - - - P. 45

Item: Un billet de Mr. Dauterive en date du 3 Juin 1769, de la somme de deux mille cinq cent quarante livres, ordre de André Massé, acté, coté et parafé No. 1.

Item: Un reçu d'André Massé, pour des bestiaux à lui livrés par le nommé L'Evoille, nègre affranchi, et Flore, son épouse, passé par Mr. de Chantelon, notaire, coté et parafé No. 2.

Item: Un acte, sous seing privé de la main et signature d'André Massé, par lequel il donne la liberté au sauvage nommé Jasmin, parafé et coté No. 3.

Item: Un acte, sous seing privé de la main et signature d'André Massé, par lequel il donne la liberté à une sauvagesse nommée Thérèse, coté et parafé No. 4.

Item: Une donation, sous seing privé, des vaches, brebis et cochons, qui sont sur l'habitation d'André Massé, ainsi que de l'habitation même, au profit de tous les nègres, coté et parafé 5.

Item: Dix lettres de divers particuliers, cotés seulement sur le dossier, et parafé 6.

Item: Six notes ou comptes, qui peuvent fournir quelque éclaircissement en cas de revision de compte, parafé et coté No. 7 sur le dossier seulement.

Item: La concession de la terre accordée au dit André Massé, parafé et coté No. 8.

Item: Diverses notes, lettres et comptes, au nombre de dix-neuf pièces, parafées et cotées seulement par le dossier No. 9.

Dans cet Etat ne s'étant trouvés aucuns autres biens à inventorier, suivant la déclaration qui nous a été faite par André, nègre affranchi et domestique du défunt, nous avons clos le présent inventaire et laissé les biens à la garde de Thomas Acken, qui a promis les avoir et garder à la disposition du tribunal de sa seigneurie Mr. le gouverneur général, et avons ordonné que le présent inventaire lui sera envoyé en original, ainsi que tous les papiers relatifs à la succession du dit défunt; et avons signé avec les Sieurs Augustin Grevemberg, Jacques Sorel, Thomas Acken, Joseph Collette, Claude Boutté, Martin Pok, Jean Baptiste Lemoyne, témoins et appréciateurs, aux Attakapas, le vingt de May, mil sept cent septante-deux.

(Signé) AUGUST'IN GREVEMBERG,
BOUTTET,
COLLETTE,
MARTIN POK,
SOREL,
THOMAS ACKEN,
LEMOYNE.

Je certifie que ce qui précède est un extrait exact et fidèle, tiré du dossier de procédures Espagnoles, intitulé "Intestado de André Massé, año 1772," et déposé parmi les archives judiciaires de mon étude, lequel extrait se trouve à la page "une," recto et verso "deux," recto et verso et "trois," recto du dit dossier. En foi de quoi, j'ai délivré la présente, à la N'elle-Orléans, le onze Janvier, mil huit cent trente-sept.

(Signed) OCTAVE DE ARMAS, *Not. Pub.*

No. 5.

Translation from the foregoing document.

In the year one thousand seven hundred and seventy-two, on the twentieth of the month of May, at nine o'clock, A. M., at Attakapas, on the occidental bank of the river Teicht, near the great lakes des Chitimachas, we, Gabriel Fuselier de la Claire, commandant of this district, assisted by Messrs. Augustin Grevemberg and Jacques Vories, have repaired to the place called Belmont, in order to proceed to the inventory, description, and evaluation of the property left by Mr. André Masse, deceased, ab intestate; where being, and in presence of Thomas Acken, Joseph Colette, Claude Boutte, Martin Pok, Jean Baptiste Lemoyne, we have ex officio appointed the said Claude Boutte, and Joseph Colette, appraisers, to estimate and appraise the said property; which office they have accepted, and have taken oath in the name of God our Lord, and, after making the sign of the holy cross, to make the said appraisement well and faithfully in their soul and conscience, according to the present emergency. This done, the property being represented to us by a man named André, free negro, the servant of the deceased, we have proceeded to take the inventory and evaluation as follows:

First. A plantation, with good and perfect title, of a square league, on the occidental bank of the Teichte, on which there are ten bad cottages, a garden fenced with pickets, a small pound or enclosure for the cattles; said plantation was given to the negroes of the deceased, by virtue of a document under private signature, which appear to us to be null and void, being contrary to the laws and customs of the realm; the said plantation, with all the improvements thereon, has been appraised to the sum of forty dollars, - - - - - $40 00

Second. A chain, perfectly new, for the use of an indigo manufactory, appraised to fifty dollars, - - - 50 00

3d. Ten hoes and four axes, good and bad, appraised to six dollars, - - - - - - - 6 00

4. A saw and an instrument to make pickets, [and] two iron wedges, appraised to three dollars, - - - 3 00

5. A large kettle in red copper and another in yellow copper, appraised together to twenty dollars, - - - 20 00

6. Two iron trivets, appraised to two dollars, - - 2 00

7. Eleven empty demijohns, appraised to eight dollars, - 8 00

8. Two volumes of La Maison Rustique, old and bound with parchment, all torn, appraised to four reals, - - 4
9. Four old breeches and four old shirts, appraised to one dollar, - - - - - - 1 00
10. An old snuff box in turtle shell, two razors, a grinding stone, and a strap to set razors, appraised to two dollars, - 2 00
A miniature portrait of Miss Masse is here for memoire.
A small knife with a gold hand, or silver gilded, appraised to one dollar, - - - - - - 1 00
A small copper compass, appraised four reals, - - 4
Item. A negro man named Petet Jean, creole, of cap, appraised to the sum of eighty dollars, aged of fifty years, - 80 00
Item. A negro man named Sigamba, aged of forty years, appraised to one hundred dollars, - - - - 100 00
Item. An Indian named Jasmin, to whom the deceased, by a private act under his signature, has set free, and is here only for memoir.
Item. An Indian by the name of Agenzi, twenty years old, to whom the deceased, by act under private signature, has set free, and, without the consent of the governor, is here for memoir.
Item. Sixty-five dollars cash have been found in a small bag, 65 00
Item. An old trunk appraised to four reals, - - - 4
Item. An old mattrass, with a mosketar bar, appraised to two dollars, - - - - - - 2 00
Item. An old coat and a hide, appraised to one dollar, - 1 00

And whereas it is noon, we have suspended this present vacation to continue it at two o'clock, and we have left the property already inventoried to the care of Thomas Acken, who took charge of the same, to represent them when required so to do, and have signed with the parties and appraisers.

(Signed) BOUTTET,
AUGUSTIN GREVEMBERG,
VORIES,
COLLETTE,
MARTIN POK,
LEMOINE,
THOMAS ACKEN,
FUSELIER DE LA CLAIRE.

And on the same day and year as above, at two o'clock, P. M., in presence of the witnesses above named, and with the same appraisers, we have proceeded to take the said inventory, as follows:

First. The iron part of an old plough, appraised to six dollars, $6 00
Item. The cattles, although bequeathed to the free negroes by an act of the handwriting of the deceased Andre Masse, have been inventoried and appraised for memoir only, in

order to avoid all difficulty in case of a law suit. We have found in the pound six pairs of steers, appraised together to the sum of one hundred and eighty dollars, - - 180 00

Item. Nine cows and thirty heifers of about ten and two years, appraised together to the sum of one hundred and fifty dollars, - - - - - - - 150 00

Item. Thirty young bulls and twenty-nine bulls, also bequeathed by a written act to the free negroes, and appraised together to the sum of two hundred and ninety-five dollars, 295 00

Item. Four saddle horses, appraised together to sixteen dollars, 16 00

Item. Thirty sheep and ewes, bequeathed by act to the free negroes and mentioned here for memoir, have been appraised to the sum of forty-five dollars, - - - 45 00

Item. A note subscribed by Mr. Dauterive, bearing date 3d June, 1769, of the sum of two thousand five hundred and forty-five pounds or livres, to the order of Andre Masse, numbered and paraphed No. 1.

Item. A receipt of Andre Masse for cattles delivered to him by Levoille, free negro, and Flore, his wife, by act passed by Mr. Chantelon, notary, numbered and paraphed No. 2.

Item. An act under private signature, in the handwriting of the deceased, by which he sets free the Indian named Jasmin, numbered and paraphed No. 3.

Item. An act under private signature, in the handwriting of the deceased Andre Masse, by which he sets free an Indian woman named Thereze, numbered and paraphed No. 4.

Item. An act of donation, under private signature, of the cows, sheep, and hogs, which are on the plantation of Andre Masse, and also of the plantation, to all the negroes set free by him, numbered and paraphed No. 5.

Item. Ten private letters of several individuals, numbered and paraphed on the back, No. 6.

Item. Six notes or accounts, which may throw some light in case of an examination of the account, numbered and paraphed No. 7.

Item. The concession of the land granted to Andre Masse, numbered and paraphed No. 8.

Item. Several notes, letters and accounts, nineteen in number, paraphed and numbered No. 9.

And there being no other property to be inventoried, according [to] the declaration made us by André, free negro, and the servant of the deceased, we have closed the present inventory, and left the property to the safe-keeping of Thomas Acken, who binds himself to keep them at the disposition of the tribunal of his lordship, the governor general; and we have ordained that the present inventory shall be sent to him in the original form, with all the papers connected with the succession of the deceased, and we have signed with Messrs. Augustin Grevemberg, Jacques Sorel, Thomas Acken, Joseph Collette, Claude Boutte, Martin Pok, Jean Baptiste Lemoyne, witnesses and appraisers, Attakapas, the

twentieth of the month of May, one thousand seven hundred and seventy-two.

(Signed) AUGUSTIN GREVEMBERG,
BOUTTE,
COLLETTE,
MARTIN POK,
SOREL,
THOMAS ACKEN,
LEMOYNE.

I certify that the foregoing is an extract, exact and faithful, drawn from a docket of Spanish proceedings, entitled, succession of André Masse, in the year 1772, and deposited among the judicial archives of my office; which extract is to be found at page one, recto et verso; two, recto et verso; and three, recto, of said docket. In testimony whereof I have delivered the present in New Orleans, this eleventh of January, one thousand eight hundred and thirty-seven.

Signed, OCTAVE DE ARMAS,
Not. Public.

I certify the foregoing to be a true translation from the French of document No. 5, annexed to document marked A.

(Signed) L'S DUVIGNEAUD,
U. S. Interpreter.

Certificate of Judge King, No. 6.

STATE OF LOUISIANA,
Parish of Opelousas:

I, the undersigned, parish judge of the parish of Opelousas, and ex officio keeper of the archives of the former French and Spanish commandants of the post of Opelousas, certify, that I have examined the said archives from their commencement in the year 1765 until 1780, and that there is no sale, or other act, by or to Bernard Dauterive and André Masse, or either of them, to be found in them.

Given under my hand and the seal of my office, at Opelousas, this 8th day of November, 1836.

[SEAL.] (Signed) GEO. KING, *P. Judge.*

Certificate of Judge P. Briant, No. 7.

STATE OF LOUISIANA,
Parish of St. Martin:

I, the undersigned, parish judge of the parish of St. Martin, and ex officio keeper of the archives of the former French and Spanish commandants of the post of Attakapas, certify, that I have examined the said archives from their commencement until the year of 1780, and that there is no sale or other act by or to Bernard Dauterive and André Masse, or either of them, to be found in the said archives.

In testimony whereof I have hereunto set my hand and affixed the seal of my office, at St. Martinsville, in the parish of St. [SEAL.] Martin, on this eleventh day of November, one thousand eight hundred and thirty-six.

(Signed) P. BRIANT,
Parish Judge.

No. 8.

Affidavit of Etienne Rocbert de la Moraudier.

Etienne Rocbert de la Moraudier étant dûment assermenté déclare, qu'il est agé de 71 ans, qu'il est né à la Pointe Coupée, et que peu de mois après sa naissance il est arrivé aux Opelousas, qu'il a depuis toujours habité, faisant souvent des voyages aux Attakapas chez ses parens, les Messieurs Delahoussaye et Fuselier, Gabriel Fuselier de la Clair, l'oncle du déposant, qui a été commandant des Opelousas et des Attakapas, était un des premiers habitans de ces postes. Le déposant lui a souvent entendu dire que feu Bernard Dauterive avait eu de très grandes concessions aux Attakapas, sur lesquelles il tenait une vacherie à cette époque la plus grande du pays. Le déposant a entendu dire la même chose à son père et à d'autres habitans. Dans la jeunesse du déposant il a connu la veuve de Dauterive quit avait épousé Mr. Degruys en secondes noces, et plusieurs des enfans de Dauterive qui alors étaient bien jeunes. Quelque tems après toute cette famille est allée s'établir sur le fleuve.

Après la mort de Dauterive sa vacherie parait avoir été négligée. Il y avait à l'endroit où Dauterive avait tenu sa vacherie, c'est à dire dans la prairie du Vermillion, entre le Vermillion et le Tèche, un très grande nombre d'animaux farouches, le père et l'oncle du déposant et tout le monde disait alors que ces animaux venaient principalement de l'ancienne vacherie de Dauterive. Ils faisaient beaucoup de tort aux autres vacheries par ce qu'ils attiraient les animaux doux. Les habitans étaient obligés de finir par les tuer.

(Signé) LAMORAUDIER.

Sworn and subscribed to, at Opelousas, 7th Nov., 1836.

(Signed) JOHN J. TAYLOR, *Register.*

No. 8.

Translation of the foregoing document.

Etienne Rocbert de la Moraudier being duly sworn, declares that he is 71 years old; that he is [was] born at Pointe Coupée, and that [a] few months after his birth he arrived at Opelousas, where he has since lived, visiting very often his relations in Attakapas, Messrs. Delahoussaye and Fuselier; Gabriel Fuselier de la Claire, the uncle of deponent, who has been the commandant of Opelousas and Attakapas, [and] was one of the first inhabitants or settlers of those posts.

Deponent has often heard him say that Bernard Dauterive *have* had very large concessions in Attakapas, on which he had a vacherie, at that

time the most extensive one in the country. Deponent heard the same thing from his father and from other planters. In the youthful days of deponent he has known the widow of Dauterive, who had married Mr. Degruys by a second marriage, and several children of Dauterive, who were then very young. Some time afterwards all that family *have* removed to the Mississippi banks.

After Dauterive's denth his vacherie seems to have been neglected. There were in the place where Dauterive had his vacherie, *it* is to say, in the prairie du Vermillon, between the Vermillon and Teche rivers, a great number of wild cattles. Deponent's father and uncle, and almost everybody, said at that time that these cattles were chiefly from Dauterive's vacherie. They were very injurious to the other vacheries, inasmuch as they *drawn* the tame cattles with them. The planters were bound to kill them.

Signed, LAMORAUDIER.

Sworn and subscribed to, at Opelousas, 7th November, 1836.

Signed JOHN J. TAYLOR, *Rr.*

I certify the foregoing to be a true and faithful translation from the French of document No. 8, annexed to document marked A.

(Signed) LS. DUVIGNEAUD,
U. S. Interpreter.

Affidavit of Charles Oliver Devezin, No. 9.

ETAT DE LA LOUISIANE, *psse. St. Martin:*

Je, Charles Olivier Devezin, déclare être né à la Nelle. Orléans, dans l'année 1779; être venu habiter les Attakapas vers 1794; que à cette époque, et depuis souvent, j'ai entendu dire, par d'anciens habitants, que feu Mr. Dauterive possédait dans ce comté de vastes terres, et qu'il avait, au Vermillion, une vacherie considérable. En foi de quoi, j'ai donné la présente déclaration à la Nelle. Ibérie, le 16me jour de Décembre, 1836.

(Signed) CHS. OLIVIER.

Donné sous ma signature à la Nouvelle Ibérie, et a été asermenté pardevant le dit soussigné juge de paix, dans et pour la paroisse de St. Martin, ce 16me jour de Décembre, A. D. 1836.

M. JH. LA BEAUVES,
Juge de paix, dans et pour la paroisse de St. Martin.

Translation of the foregoing document, No. 9.

STATE OF LOUISIANA, *parish of St. Martin.*

I, Charles Olivier Devezin, declares that he is born in New Orleans in the year 1779; that he has moved to Atakapas towards the year 1794; that at that time and since, he has heard from old planters that the late Mr. Dauterive was possessed in this county with immense lands, and that he had at Vermillon a considerable vacherie. In testimony whereof

he has given this present declaration at New Iberie, this 16th day of December, 1836.

(Signed) CHS. OLIVIER.

Given under my signature at New Iberie, and has been sworn before me, the undersigned justice of the peace in and for the parish of St. Martin, this 16th day of December, A. D. 1836.

(Signed) M. JH. LABEAUVE,
Justice of the peace in and for the parish of St. Martin.

I certify the foregoing to be a true and faithful translation of document No. 9 from the French.

(Signed) LS. DUVIGNEAUD,
U. S. Interpreter.

Affidavit of Loubry Pellerin, No. 10.

Loubry Pellerin being duly sworn deposes, that he was born in 1764 at New Orleans; that he went, the first time, to Attacapas at the age of sixteen; and from that period he resided during twenty-two consecutive years in Attacapas, where he had a plantation and a stock-farm.

The deponent having been shown a copy of the concession to Dauterive and Masse, dated the 2d of March, 1765, says that he is perfectly acquainted with the localities described in said concession. Deponent did not know Bernard Dauterive personally, but he understood, after his removal to Attakapas, from many and the most respectable inhabitants of that post, that the large tract called Vermillon prairie, situated between bayous Teche and Vermillon, had been granted by the French government to Mr. Dauterive, and that Dauterive had a large vacherie on it. During deponent's residence in Attacapas, there were many heads of wild cattle on this land, which were universally said to come from Dauterive's stock-farm; it is to deponent's personal knowledge that François and Barthelemy Grevembert, with whom deponent occasionally staid some days, killed many of them; this was necessary to preserve their own stock-farms, and had also become a sort of sport. In the day time the wild cattle generally kept in the low wood land, called "Mauvais bois," situated at and near the junction of bayou Vermillon and Tortue, and in the night they went out into the prairie to graze.

(Signed) BARTHELEMY PELLERIN.

Sworn to and subscribed before me, one of the associate judges of the city court of New Orleans, this 27th day of December, 1836.

(Signed) F. M. GUYOL, *Judge.*

Affidavit of J. B. Degruy, No. 11.

22 *Août*, 1836.—*Déclaration de J. B. Degruy en faveur des héritiers de A. B. Dauterive concernant une terre.*

En la paroisse de Jefferson, Etat de la Louisiane, le vingt-deux Août, mil huit cent trente-six, et dans la soixante unième année de l'indépendance des Etats Unis d'Amérique. Pardevant moi, François

Joseph Enoul Dugué Liveaudais, juge de paroisse, et en présence des témoins ci-après nommés et soussignés, est personellement comparu Monsieur Jean Baptiste Degruy, lequel ayant été dument assermenté, dépose qu'il est né à la Nouvelle-Orléans, en 1750, et qu'il a toujours habité la Basse Louisiane, le déposant a beaucoup connu feu Antoine Bernard Dauterive, qui avait été capitaine au service Français, et qui est mort à Plaquemine en 1775. En 1778, la veuve Dauterive alla demeurer aux Attakapas où elle avait des parens, et le 4 de Mai, 1779, elle se maria avec le déposant qui depuis 1777 habitait les Attakapas.

Dauterive avait des terres considérables aux Attakapas avant 1765, il était en société avec André Massé. Massé avait une concession dans le haut du bayou Têche, à-peu-près à deux lieues au-dessus de l'église de société avec Dauterive; ils y avaient une grande vacherie.

Quelque temps après l'arrivée des Acadiens dans le pays Dauterive et Massé permettant à plusieurs d'entr'eux de s'établir sur cette terre, et ils donnèrent à chaque famille qui s'était ainsi établie six vaches et un taureau.

Plus tard le nombre des animaux de Dauterive et de Massé s'étant considérablement accru, et beaucoup de ses animaux étant marrons et farauches, cette circonstance devint la cause constante de dispute entre Dauterive et Massé et les Acadiens, leurs voisins.

Les derniers presentèrent alors une pétition au gouverneur exposant le tort que les animaux marrons de Dauterive et Massé leurs faisaient, et demandant la permission de les tuer; fatigués de ces difficultés Dauterive et Massé demandèrent alors une nouvelle concession dans la prairie du Vermillion, entre les bayou Tortue, le Vermillion, et les prairies Vaseuses de la Mer, et offrirent d'abandonner aux Acadiens la terre qu'ils leur avaient permis d'établir.

La concession leur fut accordée à cette condition, vers 1765 ils y transportèrent de suite leur vacherie, et abandonnèrent leur concession sur le bayou Têche aux Acadiens ainsi qu'ils s'étaient obligés de le faire; depuis ce temps ni Dauterive ni Massé n'ont jamais pretendu avoir aucun droit sur la dite terre du bayou Têche. Peu de temps après Massé vendit à Dauterive sa part dans la terre et la vacherie du Vermillion, et alla s'établir dans le bayou Têche au dessus de Mr. Sorel où il est mort, Dauterive avait dans la prairie du Vermillion de trois à quatre cents bêtes douces et plusieurs milliers de bêtes farouches.

Dauterive avait aussi une concession sur le bayou Têche de beaucoup postérieur en date de celle de la prairie du Vermillion. Cette terre a été vendue par le déposant et sa femme, à l'exception de six arpens de face sur lequel se trouve l'église.

Les établissements néccessaires pour la vacherie de Dauterive étaient à très peu de distance et à l'ouest du bayou Têche. Le déposant et sa femme ont continué d'occuper et de cultiver la terre appelée la prairie du Vermillion comme vacherie après la mort de Dauterive, et y ont constamment eu 4 et 5 nègres, et un blanc, pour avoir soin des animaux, jusqu'à l'époque où ils ont quitté les Attakapas, vers 1784.

Depuis leur mariage jusqu'à leur départ le déposant et sa femme ont résidé sur la dite terre du bayou Têche.

Dauterive a laissé quatre enfans, qui étaient ses seuls héritiers. L'aîné de ses enfans, nommé comme son père Antoine Bernard Dauterive, avait, à l'époque du mariage du déposant avec la veuve de Dauterive, 14 ans. Il est mort en 1812 ou 1813, laissant quatre enfans, tous vivans, savoir: Jean Baptiste Dauterive, Valleire Dauterive, et Leonore Dauterive, femme d'Auguste Richard, tous les trois demeurant dans la paroisse St. Martin, et Adeline Dauterive, veuve de Jules Noël, de la paroisse d'Iberville.

Louis Decomenes Dauterive, le deuxième des enfans de B. Dauterive, avait à l'époque du mariage de sa mère avec le déposant 12 ans. Il est mort le 28 Avril, 1814, laissant quatre enfans, tous vivans, savoir: Theodule Dauterive, Virginie Dauterive, femme de Louis Bouligny, et Fanélie Dauterive, femme de Felix Delery, toutes les trois de la paroisse de Jefferson, et Pauline Dauterive, femme de Samuel Logan, de la paroisse St. Charles.

Antoine Marigny Dauterive, le troisième des enfans de Bernard Dauterive, avait à l'époque ci-dessus citée six ans. Il est mort en 1828, sans avoir été marié.

Le quatrième enfant de Bernard Dauterive, nommé Dubuclet, est mort en bas âge.

Le déposant connaît toutes les personnes qu'il vient de nommer depuis leur bas âge. La femme du déposant est morte en 1811.

Depuis son départ des Attakapas en 1784, le déposant et sa femme ne se sont plus occupés de ces terres, qui sous le gouvernement Espagnole étaient considérées de peu de valeur, mais depuis à-peu-près quinze ans, Mr. Livingston était chargé de régler ces affaires. Le déposant ignore ce que Mr. Livingston en a fait.

Le déposant ajoute qu'il y a en ville un vieux nègre, nommé Grégoire, qui a appartenu à feu B. Dauterive et à sa veuve jusqu'à la mort de la dernière en 1811; c'était le domestique de maison et de confiance de la famille. Il est intelligent et a bonne mémoire, et ayant toujours été avec B. Dauterive, il se rappelle beaucoup de circonstances relatives aux terres dont il est question dans cette affidavit.

Dont acte fait et passé en l'étude dans la paroisse de Jefferson susdite, les jour, mois, et an que dessus, en présence de Messieurs Louis Alexandre Harang, Théodore Tureaud, François Joseph Laijer, témoins compétens appelés du nombre de trois, à cause de la cécité dont le sieur Degruy le déposant est affligé, lesquels ont signé avec le déposant et le juge susdit après lecture faite.

Signé,

J. B. DEGRUY,
THRE. TUREAUD,
L. A. HARANG,
F. J. LAIJER,
F. DUGUE, *Juge*.

Je certifie la copie ci-dessus conforme à l'original qui est en mon étude pour recours.

En foi de quoi j'ai signé les présents et y ai apposé le sceau de mon étude en la paroisse de Jefferson, ce huit Décembre, mil huit cent trente-six.
[L. S.]

(Signed) F. DUGUE, *Juge*.

Translation of the foregoing document.

22d of August, 1836. Declaration of J. B. Degruys on behalf of the heirs of A. B. Dauterive in relation to a piece of land.

In the parish of Jefferson, State of Louisiana, the twenty-second of August, eighteen hundred and thirty-six, and in the sixty-one year of the independence of the United States of America, before me, François Joseph Enoul Dugué Liveaudais, parish judge, and in presence of the hereinafter named witnesses, personally appeared Mr. Jean Baptiste Degruy, who being duly sworn deposeth, that he *is* born in New Orleans in the year 1750, and that he has always lived in the lower part of Louisiana. Deponent was well acquainted with the late Antoine Bernard Dauterive, who had been captain *at* the French service, and who died at Plaquemine in the year 1775. In 1778 the Widow Dauterive moved to Attakapas, where she had relations, and on the 4th of May, 1779, she married deponent, who, since the year 1777, was an inhabitant of Attakapas.

Dauterive had extensive lands at Attakapas before the year 1765; he was then in partnership with André Masse; Masse had a concession in the upper part of bayou Teche, about two leagues above the church, in partnership with Dauterive; they had there a vacherie.

Some time after the arrival of the Acadiens in this country, Dauterive and Masse allowed to several of them to move and establish themselves on said land, and they gave to each family who had established themselves on the premises six cows and one bull.

Some time afterwards the number of Dauterive and Masse's cattle having considerably increased, and many of them having run away and become wild, this circumstance became the cause of constant quarrels between Dauterive and Masse and the Acadians, their neighbors. The Acadians presented then a petition to the governor, exposing to him the wrong that the wild cattles of Dauterive and Massé were doing them, and *beg* the permission of killing them. Tired and harrassed with all these difficulties, Dauterive and Masse petitioned then for a new concession in the prairie du Vermillion, between the bayous Tortue, *le* Vermillion, and the Muddy prairies on the sea shore, and offered to abandon to the Acadians the land on which they allowed them to establish themselves.

The concession was granted to them on this condition—it was towards the year of 1765. They removed there immediately their vacherie and abandoned their concession, situated on bayou Têche, to the Acadians, as they had agreed to. Since that time, neither Dauterive nor Massé ever pretended to raise or claim any right or title to the said land on the bayou Têche. Shortly afterwards, Massé sold to Dauterive his portion in the land of vacherie du Vermillion, and *form* an establishment in

the lower part of bayou Têche, under Mr. Sorel, where he died. Dauterive had, in the prairie du Vermillion, about three or four hundred tame *cattles* and about several thousand wild ones.

Dauterive had also a concession on the bayou Têche of a *latter* date than the one of the prairie du Vermillion. That land was sold by the deponent and his wife, *at* the exception of six arpents.

The necessary establishments of Dauterive's vacherie were at a small distance on the west of bayou Têche. Deponent and his wife have continued to occupy and cultivate the land named prairie du Vermillion, as a vacherie, since the death of Dauterive, and they had placed there four *and* five negroes and a white man to take care of the *cattles* till the time they left the Attakapas, towards the year 1784. Since their marriage, till their departure from Attakapas, deponent and his wife have constantly lived on the said land of bayou Têche.

Dauterive left four children who were his only heirs; the eldest of his children was named after his father, Antoine Bernard Dauterive, and *had*, at the time of the marriage of deponent with the widow Dauterive, 14 years [of age.] He died in 1812 or 1813, leaving four children, all living now, to wit, Jean Baptiste Dauterive, Vallerien Dauterive, and Leonore Dauterive, wife of Auguste Richard, all three residing in the parish of St. Martin, and Adeline Dauterive, widow of Jules Noël, of the parish of Iberville.

Louis Decomines Dauterive, the second child of B. Dauterive, *had*, at the time of deponent's marriage with his mother, 12 years [of age.] He died on the 25th of April, 1814, leaving four children, all living, to wit, Theodule Dauterive, Virginie Dauterive, wife of Louis Bouligny, and Fanelie Dauterive, wife of Felix Delery, all three residing in the parish of Jefferson, and Pauline Dauterive, wife of Samuel Logan, of the parish of St. Charles.

Antoine Marigny Dauterive, the third child of Bernard Dauterive, *had*, at the time above mentioned, six years [of age.] He died in 1828, without having been married. The fourth child of Bernard Dauterive, named Dubuclet, died while a child.

Deponent knows every one of the persons above named since their infancy. Deponent's wife died in 1811.

Since his departure from Attakapas, in 1784, deponent and his wife never *mind* these lands, which, under the Spanish government, had very little value; but since, about fifteen years, Mr. Livingston was charged with the settlement of *these businesses*, deponent is ignorant of what Mr. Livingston may have done.

Deponent adds, that there is in the city an old negro named Gregoire, who belonged to B. Dauterive and to his widow till the death of the latter in 1811. He was the confidential servant of the family. He is intelligent and has a very good memory, and, having always been with B. Dauterive, he recollects a great deal of circumstances in relation to the lands which are mentioned in this affidavit.

Done and passed, in the office in the parish of Jefferson, the day, month, and year above mentioned, in presence of François Joseph

Laizer, and Louis Alexandre Harang, and Theodore Tureaud, competent witnesses, being three in number, on account of the blindness of deponent and the aforesaid judge, who have signed after the reading of the same being made.

(Signed) T. B. DEGRUY,
TH. TUREAUD,
L. A. HARANG,
F. T. LAIZIER,
F. DUGUE, *Judge*.

I certify the above copy conformable to the original in my office for recourse.

In testimony whereof I have signed these presents and have affixed to it the seal of my office, in the parish of Jefferson, this eighth of December, eighteen hundred and thirty-six.

[SEAL.]

(Signed) F. DUGUE, *Judge*.

I certify the foregoing to be a true and correct translation from the French of document No. 11, annexed to document marked A.

(Signed) F. S. DUVIGNEAUD,
U. S. Interpreter.

No. 12.

Concession d'une lieue de face à la rivière Têche de chaque bord.

LAND OFFICE, EASTERN DISTRICT, STATE OF LOUISIANA,
New Orleans, March 13th, 1823.

Aujourd'hui, sept Décembre, mille sept cens soixante et quinze, pour l'exécution des ordres de sa seigneurie Monsieur de Ynzaga, gouverneur général de cette province, en date du sept Octobre de cette même année, je, soussigné, cap'ne command't les Attakapas et Opelousas, *avoir* designé à Mr. Dauterive, ancien capitaine d'infanterie sur la rive orientale et occidentale de la rivière Teijche une lieue de face de terre, avec profondeur sur l'orientale d'une demie lieue, et sur l'occidentale jusqu'au bayou Tortue, après en avoir connues les bornes d'un côté, en présence du Sr. Louis Grevembert, ci-dessous signé, qui nous a déclaré être les anciennes vis-à-vis un petit isle de copaliers, et dans sa qualité d'habitant limitrophe l'avons nommé d'office pour l'arpentage de la dite terre, ce qu'il a fait en notre présence, et dans la meilleure forme possible, assisté Sr. François Grevembert pour compléter la dite lieue, au bout de laquelle a été mise une borne attenante au domain du roi.

Fait et passé en présence des témoins ci-dessus denominés, qui avec nous commandant ont signés ce même jour et an.

LOUIS GREVEMBERT,
FRANCOIS GREVEMBERT,
LE CHER. DE CLOUET.

Je certifie la présente copie conforme à l'original resté entre nos mains, Attakapas, ce 13 Octre., 1775. LE CHVR. CLOUET.

I, Samuel H. Harper, register of the land office for the eastern district of the State of Louisiana, do certify the foregoing to be a true copy from the original now remaining in my office.

Witness my hand, at the city of New Orleans, this 13th day of March, A. D. 1823, and 47th of the American independence.

(Signed) SAM. H. HARPER, *Register*.

Translation of the foregoing document No. 12.

LAND OFFICE, EASTERN DISTRICT OF LOUISIANA,
New Orleans, March 12, 1823.

This day, seventh of December, seventeen hundred and seventy-five, in execution of the orders of his lordship, Mr. De Yuzaga, governor general of this province, bearing date seventh of October of this present year, I, the undersigned, captain commandant of the Attakapas and Opelousas, have pointed out to Mr. Dauterive, former captain of infantry, on the oriental and occidental banks of the river Teijche, a piece of land measuring one league front on each bank, having in depth on the oriental bank half a league, and on the occidental bank as far as bayou Tortue, after having recognised the land mark on one side, in presence of Mr. Louis Grevemberg, undersigned, who *did* declared them to be the old ones, opposite a small island of gum trees, and, as being a bordering planter, have, ex officio, appointed him for the survey of said land; which he did in our presence, and in the best possible form, assisted *by* Mr. François Grevemberg to compl[illegible] the said league, at the end of which we have planted a landmark adjoining the King's domain.

Done and passed in presence of the witnesses above named, who, with us commandant, have signed this same day and year.

(Signed) LOUIS GREVEMBERG,
FRANCOIS GREVEMBERG,
LE CH'ER DE CLOUET.

I certify the present copy conformable to the original which remains in our possession. Attakapas, this 12th October, 1775.

(Signed) LE CH'ER DE CLOUET.

I, Samuel H. Harper, register of the land office for the eastern district of the State of Louisiana, do certify the foregoing to be a true copy from the original now remaining in my office.

Witness my hand, at the city of New Orleans, this 13th day of March, A. D. 1823, and 47th of the American independence.

(Signed) SAM. H. HARPER, *Register*.

I certify the foregoing to be a true and faithful translation from the French of document No. 11, annexed to document marked A.

(Signed) LS. DUVIGNEAUD,
U. S. Interpreter.

Certificate of P. Hebrard, register.

I hereby certify, that the preceding notice and statement, signed by L. Bouligny, as the agent of the heirs of Bernard Dauterive, and the

thirteen documents thereto annexed, were filed in the land office at Opelousas on the 24th of January, 1837, and were copied at length in the records of said land office; and I further certify, that said claim and the aforesaid documents are the same on which a report was made and addressed to the Secretary of the Treasury, on the 15th of February, 1842, by the late register and receiver of the aforesaid land office. I further declare that, being at present at New Orleans, it is not in my power to annex to this certificate the official seal of the aforesaid land office.

Sworn to and subscribed before me.

(Signed) P. HEBRARD, *Register.*

New Orleans, November 18th, 1845.

By consent of parties, the same credit and effect is to be given to the preceding certificate of P. Hebrard, register, as if the seal of the land office was attached thereto. New Orleans, June 23d, 1847.

(Signed) THOMAS J. DURANT,
Attorney of the United States for the district of Louisiana.

(For maps, see original.)

C.

Copy of portion of a document entitled "Intestado de André Massé, año 1772."

Copie d'une pièce originale, formant partie d'un dossier de procédures judiciaires en langue Espagnole, intitulé "Intestado de Andrés Massé, año de 1772," et déposé en mon étude. Ce dossier, presque rongé par les vers, et en très mauvais état par sa vêtusté et par l'humidité, offre très peu de pages intactes et lisibles. Cependant la pièce qui suit, à quelques mots près, est assez bien conservée, savoir:

. . . . . EXCELLENCE:

Monsieur O'Reilly, commandeur de Benfayen, dans l'ordre d'Alcantara, lieutenant (quelques mots effacés) teur général (un mot rongé) armées de Sa Majesté Catholique, capitaine général et gouverneur de la province (deux mots rongés) Louisiane

Supplie humblement André Massé, le plus ancien habitant des Attacapas, lequel aurait l'honneur de nous représenter que, lorsqu'il aurait été assuré que cette province était cédé à l'Espagne, il aurait fait, à son unique héritière, un abandon de tout ce qu'il prétendait du bien de sa famille, pour qu'elle en jouir et disp . . . . . , comme d'un bien à elle appertenant; le suppliant étant parvenue à un âge très avancé, étant plus que septuagen . . . . . , désirerait, en considération des bons et agréables services qu'il aurait reçus de père en fils, depuis près de cinquante ans, de deux familles de nègres, la première composée de Marie,

André fils de Marie, Joseph et Marianne, petits . . . . . de la dite Marie; la seconde composée de Lisette, mère de Madelaine, Françoise, Pèdre, Dominique, Claude, Na . . . . . et Saint-Nom, tous enfans de la dite Lisette, et Jean Louis, fils de Françoise ci-dessus; à lui appartenant, et ne devant . . . . . en à personne, voudrait leur accorder la liberté après son décès. Il prie son excellence de vouloir confirmer les dites libertés, et que les dits esclaves jouissent de tous les priviléges des autres affranchis.

Ce faisant, le suppliant et les affranchis ne cesseront de prier le Tout-Puissant pour la santé et conservation de votre excellence.

Aux Attacapas, ce 18 Déc'bre, 1769.

(Signé) MASSÉ.

Nous accordons au Sr. Massé la consolation qu'il nous demande pour la liberté des esclaves mentionnés dans la requête, et en conséquence le Sr. Garrie n'y mettra aucun obstacle.

A la N'elle-Orléans, le 14 Février, 1770.

(Signé) O'REILLY.

Enrégistré en registres du greffe par nous, écrivain de gouvernement, cabildo, etc., public, à vo. et fo. 33, à la Nouvelle-Orléans, le 6 Mars, 1770.

(Signé) GARIE, *Notaire.*

Pour copie fidèle, extraite du dossier susdit, à la page 15.

Nouvelle-Orléans, ce 9 Juin, 1847.

(Signed) OCTAVE DE ARMAS,

[SEAL.] *Not. Pub.*

C.

Translation of the foregoing document.

Copy of an original document making part of a docket of judicial proceedings in the Spanish language, "entitled" ab-intestado of succession of André Massé, year of 1772, and deposited in my office.

That docket, eaten up by worms, and in very bad condition by its antiquity and by dampness, offers very few pages entire and legible. However, the following document, at the exception of some words, is well preserved, to wit:

. . . . . EXCELLENCY: My Lord O'Reilly, commander de Benfayen in the order of Alcantara, lieutenant (some words erased) general (a word nibbled) armies of his Catholic majesty, captain general and governor of the province (two words nibbled) Louisiana:

Humbly prays André Masse, the oldest inhabitant of Attakapas, who has the honor to represent to you, that when he was assured that the province was ceded to Spain he has made to his only heir an abandonment of all of what he possessed of the property of his family, that she may enjoy and disp . . . . . of the same as a property to her belonging; the petitioner being at a very old age, being more than

septuagen . . . . wishes, in consideration of the good and valuable services which he has received from the fathers to the son, since near fifty years, of two negro families, the first one composed of Marie, André, son of Marie, Joseph, and Marianne, grand . . . . . of the said Marie; the second one composed of Lisette, mother of Magdeline, Françoise, Pedre, Dominique, Claude, Na . . . . . and Saint-nom, all children of the said Lisette, and Jean Louis, son of Françoise above named, all belonging to him, and owing nothing . . . . . to nobody, he wishes to set them free after his death. He prays his excellency to confirm the said manumissions, and that said slaves may enjoy all the immunities attached to free negroes.

In granting this to your petitioner, he and the emancipated negroes will never cease to pray God Almighty for the health and conservation of your excellency. At Attakapas, this 18th December, 1769.

(Signed) MASSE.

We grant to Mr. Masse the consolation he asks for the freedom of the slaves mentioned in his petition, and in consequence thereof Mr. Garie will put no obstacle to the same. At New Orleans, this 14th February, 1770.

(Signed) O'REILLY.

Filed in the register of the office by us, writer of the government cabildo and public, to vo. 34, and fo. 35, at New Orleans, this 6th March, 1770.

(Signed) GARIE, *Notary.*

Faithful copy extract from the aforesaid docket at page 15. New Orleans, this 9th of June, 1847.

(Signed) OCTAVE DE ARMAS,
Notary Public.

I certify the foregoing to be a true and faithful translation from the French document marked C, filed in the case of Dauterive's Heirs vs. the United States.

(Signed) LS. DUVIGNEAUD,
U. S. Interpreter.

D.

Report on the claim of the Heirs and legal Representatives of Bernard D'Auterive.

An act for the final adjustment of claims to lands in the State of Louisiana.

Section 1st. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, "That any person or persons having claims to lands in the State of Louisiana whose claims have been recognised by former laws as valid, but which have not heretofore been confirmed to the grantees or legal representatives, be, and they are hereby, authorized to present their claims to the

register and receiver of the land office in which the land may lie, within two years from the passage of this act, together with the written and other testimony in support of the same; and it shall be the duty of the register and receiver to record, in a book to be kept by them for that purpose, the notice of every claim so preferred, together with the evidence in support of the same; and the said register and receiver are hereby further authorized to receive any evidence for and on behalf of other individuals who may resist the confirmation of any such claims, either on their own behalf or that of the United States, and cause to be taken any evidence which shall be deemed necessary and proper by them to have such claim properly and justly settled, and to have the same likewise recorded in said book; for which service, in recording the applicants' title papers, and evidence, they shall be entitled to receive from said applicant at the rate of twenty-five cents for every hundred words.

Section 2d. And be it further enacted, &c., That it shall be the duties of the registers and receivers at the land offices, at or before the session of each session of Congress thereafter, to make to the Secretary of Treasury a report of the claims which may have been presented before them, together with the testimony, accompanied by their opinions of the validity of each claim, and such other information respecting them as may be in their possession; which said report shall, by the Secretary of the Treasury, be laid before Congress as soon as practicable, with the opinion of the Commissioner of the General Land Office, touching the validity of the respective claims.

Approved, February 6th, 1835.

LAND OFFICE AT OPELOUSAS, LOUISIANA,
February 15th, 1842.

To the Hon. the SECRETARY OF THE TREASURY
Of the United States.

The undersigned, register and receiver of the land office at Opelousas, at the urgent solicitation of the claimants, and following up the wishes of the late Commissioner of the General Land Office, have the honor to make to you the following report of the claims of the heirs and legal representatives of Bernard Dauterive, which has been entered at this office pursuant to an act of Congress, approved the 6th day of February, 1835, which, from its voluminous bulk, like some others on file still unreported, were laid aside by the late board of commissioners, and not embraced in their reports of the 15th May, 1840, to which they legitimately belonged.

Very respectfully, your obedient servants,
Signed, G. A. BRIANT, *Register*.
Signed, GEORGE M. SMITH, *Receiver*.

The heirs and legal representatives of Bernard Dauterive, of the county of Attakapas, claim an extensive tract of land in [the] aforesaid county, situated at a place called the "Vermillion prairie," the boundaries of which are defined as follows, to wit:

On the north by the "Mauvais Bois," a well known piece of low land, lying between the bayou Teche and bayou Vermillion; on the east by lake Tasse and bayou Tortue; on the west by the bayou Vermillion; and on the south by the Salt marsh bordering on the sea.

In support of this claim the following documents of title have been filed with the notice, to wit:

1st. A duly authenticated exemplification, from the records of the register's office at New Orleans, of a complete patent in favor of Dauterive and Masse, made and granted at New Orleans on the 2d day of March, 1765, by Aubry and Foucault, then commandants for the King in Louisiana, for the above described tract of land, and which is found to correspond with the extract of patents on file in this office; the following is a literal translation of the grant, viz:

Land office, eastern district of Louisiana.

Charles Philippe Aubry, knight of the royal and military order of St. Louis, commandant for the King in Louisiana, and Denis Nicolas Foucault, filling the functions of director in this province.

At the prayer which Messrs. Dauterive and Masse, associates, have made to us for granting to them a tract of land, known under the name of Vermillion prairie, bounded on the east by the bayou Tortue and lake Tasse; north by the "Mauvais Bois;" west by the Vermillion river; and south by a muddy prairie; and in consideration of the cession the said Dauterive and Masse have [made] to the Acadian families, recently arrived in this province, of their lands which they have been possessed of and occupied for a long time, and the great benefit that will result from the extensive vacherie the applicants intend establishing on the Vermillion prairie, we have conceded, and do by these presents concede, to them the aforesaid lands, for, by them, their heirs or assigns, to enjoy and make use of as their exclusive property, any safe titles or possession anterior to theirs to the contrary; it being well understood that it is on this side of the boundaries which may have been freed by the French and Spanish possessions, and that they will remit the titles of the land they grant to the Acadian families, on condition that the settlement aforesaid shall be made within one year after this date, in default of which, the land will again revert to the King, who will afterwards dispose of it as though the present cession had not been granted or made; and, moreover, they shall be obliged to pay the tax on the land, if some one hereafter settles in the colony. We reserve for his Majesty all and several the woods or timber necessary for the building of forts, stores, and other works, which he has ordered or may henceforth order; and for the fitting and careening of his vessels, whenever it shall be acquired; also the necessary lots of the royal highways and participation, &c.

Given in New Orleans under the seal of our arms, and the countersign of our secretaries, this 2d day of March, 1765.

Signed, AUBRY & FOUCAULT.

Countersigned—SOUBIE & DUVERGE.

Book 1, fo. 180 and 181.

2d. Sundry evidences, tending to prove a sale from Masse to Dauterive of his interest in said session, numbered from 2 to 11. 3d. A certified copy of an incomplete grant to Dauterive of a tract of land, situate on both sides of the bayou Tèche, containing eighty-four arpents on each side front, by the ordinary depth, numbered 12 and 13. It appears, from a representation made by the claimants, that the sale from Masse to Dauterive was made and concluded on the 14th May, 1765, by an act under private signature, executed in the presence of witnesses, for 25,000 livres, payable in four terms, to secure which Masse secure a mortgage; the original of this act has been lost, but its absence is supplied in document No. 2, which is a copy of it, entirely in the handwriting of Masse himself; or at least there is the strongest presumptive evidence, adduced in the affidavits of Amedée Ducatel and Victor St. Victor, embraced in document No. 3, that the copy of the act of sale of the vacherie of Attakapas, filed No. 2, was the handwriting of André Masse. Amedée Ducatel testifies that he has examined a paper to be found in a record entitled "Año 1772, Intestado de André Masse," and now preserved in the office of Octave de Armas, notary public, in this city, as part of the notarial record of the late Andres Almonaster y Roxas; the said document contains evidently the proceedings had in 1772 and the following years for the settlement of the estate of Andre Masse, of Attakapas; the above mentioned paper, which deponent has particularly examined, is a petition in French, on a large sheet of a paper addressed by Andrew Masse, in 1769, to Governor O'Reilly for permission to emancipate his slaves; the whole of it is unquestionably in the same handwriting as the signature "Masse," and it is apparent that the whole of it was written by the petitioner, Masse, himself. Deponent has attentively compared this last mentioned paper with the one dated 14th May, 1765, purporting to be a sale from Masse to Dauterive, which has been copied into this affidavit. Deponent believes, indeed, he has no doubt, that both these papers are entirely in the same handwriting. Deponent is a notary public, and before his appointment to that office has been employed a number of years in a notary's office; in the course of his business he has had occasion to see and to examine a great many different handwritings, and believes that these opportunities have given him some skill in discriminating handwritings.

(Signed) AMEDEE DUCATEL.

Sworn to and subscribed before Edward Rawle, judge of the city court, New Orleans, January 17th, 1837.

Victor St. Victor affirms that he has attentively examined the two writings described in the preceding affidavit, and that the handwriting of both are perfectly similar, and deponent believes them to be the same handwriting. Deponent has been long engaged in commercial business, and in banks, and has had many occasions to examine handwritings. Document No. 4 is another proof, and a most important one, and one all sufficient in itself, of the sale of Dauterive. It is an opposi-

tion made by Masse, on the 16th of October, 1770, to the seizure of the vacherie which two of Dauterive's creditors attempted to make. Masse states that Dauterive still owes him a balance of 2,500 on the price of the stock and vacherie, and claims to be paid in preference as vendor. The Chevalier de Clouet certifies that the document is a true copy from the original in form amongst the papers in the commandment, dated September 30th, 1776. Document No. 5 is the inventory of the estate of André Masse, made on the 20th May, 1772, by the commandant, Fuselier de la Claire; his property is minutely inventoried; five witnesses were present, who were, no doubt, his neighbors, and best acquainted with his circumstances; but no mention is made of any land in Vermillion prairie.

Documents Nos. 6 and 7 are certificates of the honorable Judge Geo. King, of Opelousas, and the honorable P. Briant, parish judge for the parish of St. Martins, given in 1836; that they have examined the archives of their respective offices until the year 1780, and that there is no sale or other act by or to Bernard Dauterive and André Masse to be found in said archives. Documents 8 and 9 embrace the evidence of Etienne Robert de la Moraudier and Charles Olivier, both of which witnesses state that they had a personal knowledge of a large vacherie establishment on the prairie Vermillion, county of Attakapas. Document 10 is the testimony of Loubry Pellerin, taken before F. M. Guyol, one of the associate judges of the city court at New Orleans. Deponent states that he was born in the year 1764, in the city of New Orleans; that when he first went to Attakapas he was sixteen years of age; that from that period he resided during twenty-two years in that district; that having been shown a copy of the concession to Dauterive and Masse, dated the 2d of March, 1765, stated that he was perfectly well acquainted with the localities described in said concession; that he was not personally known to Bernard Dauterive, but understood after his removal to Attakapas, from many and the most respectable inhabitants of that post, that the large tract called the Vermillion prairie, situate between bayou Têche and Vermillion, had been granted by the French government to said Dauterive; that he had a large vacherie on it; during deponent's residence in Attakapas there were vast numbers of wild cattle on this land, which were universally said to come from Dauterive's stock-farm; that it was to deponent's personal knowledge that François and Barthelemy Grevembert, with whom deponent occasionally stayed some days, killed many of these cattle; that it had become a sort of sport; that in the day time the cattle generally kept in the low wood lands, called "mauvais bois," situate *at at* near the junction of bayou Vermillion and Tortue, and that in the night they went out into the open prairie to graze.

The document No. 10 contains the highly important testimony of Jean Baptiste Degruy, who married Dauterive's widow; this testimony was taken before Judge Dugue in the parish of Jefferson, on the 8th day of December, 1836; Degruy, after being duly sworn, states, that previous to 1765, Dauterive and Masse had extensive tracts of lands,

and a large stock farm in Attakapas, on bayou Teche, about two leagues above the church; that when the Acadians arrived in that district they permitted a number of them to establish themselves on their lands, and gave to each of those families six cows and a bull; that Dauterive and Masse had a great many heads of wild cattle, and, as they increased in number, they became troublesome to the Acadians, who finally made a formal complaint to the governor, and requesting that he would interfere and put a stop to those difficulties. The deponent goes on to state that Dauterive and Masse at this time offered to abandon their lands in favor of the Acadians, and take in lieu thereof other lands, the "Vermillion prairie;" deponent at the time he gave in this testimony, was at the advanced age of eighty-six years; spoken of as a man of the most remarkable soundness of faculties, of a very retentive memory, and possessed an accurate recollection of those long by-gone transactions; he was personally acquainted with B. Dauterive, and in the year 1779 he married with Dauterive's widow; he resided many years in Attakapas, and his connection with Dauterive's family necessarily made him acquainted with their family concerns, and impressed them indelibly upon his memory; the testimony of Degruy is perfectly consistent with the tenor of the grant, the conditions of which seem to have been strictly complied with. Documents Nos. 12 and 13 are the certified copies of an incomplete grant, together with a survey of the same made by Carlos Trudeau, surveyor general, 17th March, 1786, which are filed for the purpose of showing, that although there were claims set up for land in the immediate vicinity of St. Martinsville, under a concession to Mr. Dauterive, that it was an incomplete grant made on the 7th December, 1775, under which the claimants set up no other demand; it, therefore, becomes evident, (as it has been shown, that they abandoned their possessions on the upper Têche as soon as the grant to the Virmillion prairie was made to them;) that the titles which Dauterive and Masse had to lands in Attakapas, previous to 1765, have vanished without leaving a trace behind to *exite* jealousy or cause distrust.

The existence and extent of the vacherie are moreover attested by the sale of it in 1765, for which Masse received for his portion 25,000 livres, which was no inconsiderable sum at that early period in this province, and by Masse's opposition to its seizure in 1770.

After Dauterive's death, the vacherie was greatly neglected, the cattle ran wild through the prairies, the inhabitants became greatly annoyed by them, and turned out in parties to shoot them down; it was then said by all that they came from and belonged to Dauterive's vacherie.

From the peculiar circumstances which seem to involve this claim, its unwarrantable neglect, firstly, by the heirs themselves, and lastly, by the former boards of this office, and the unsuccessful efforts of the honorable Edward Livingston to obtain any action of Congress upon it, and the very heavy charges and expenses which the heirs have been at in the protection and prosecution of their rights, have induced us to examine with the greatest circumspection and attention all the documents of title filed in this claim; we have given it throughout a mature and

deliberate investigation, and seeing the pacific views of the claimants in their renouncement of their rights to any part of the said land, to which a title has been obtained, either by French or Spanish grant, private entry, or otherwise, that may fall within the limits of their grant, and from the fact that the patent mentioned in this claim, corresponding with one on the abstract of patents certified by the register of New Orleans, for the use of this office, consequently making it a complete title in form, which left no act of the sovereign remaining to be done, the title of the land was fully vested in Dauterive, a confirmation of such a title is scarcely necessary, though it may be useful; Congress never asserted the right to annul, restrict, or question any genuine complete grant which has been made by the former governments; they were regarded as sacred documents, and respected by the treaty of cession; it was not obligatory on the holders of complete patents to file them with the registers and the receivers. [By] the 5th section of the act of the 2d March, 1805, the registers and receivers were requested to make a report on all complete French and Spanish grants, the evidence of which, though not thus filed, may be found on record in the public records of such grants; it was evident the reports on such titles were required for the purpose of ascertaining what lands has ceased to belong to the public domain.

If the intention of Congress had been to subject these claims to their scrutiny, they would have required of the owners to file them; if the board, on finding in the public records the evidence of a complete grant, *and* would have made any other than a favorable report on it, Congress would never have permitted such a decision; the boards were only to decide on the simple recorded proof, that is, the official copy of the grant, and were to consider it as conclusive evidence; it has accordingly been decided by the supreme court of this State, as well as the United States court, that a complete grant is complete evidence of title without any confirmation; and viewing the grant of the claimants, in this report, of a similar character, and perfectly satisfied as regards the sale from Masse to Dauterive, the testimony in proof thereof being ample and complete, we cannot do otherwise than recommend this claim for confirmation to the full extent of land that may be found comprised within the boundaries laid down in the concession.

LAND OFFICE, OPELOUSAS, LA.,
March 1st, 1842.

I do hereby certify the foregoing to be a true copy from the original report transmitted to the Secretary of the Treasury on the 15th ultimo, which is also on file and of record in this office.

In testimony of which I hereunto set my hand, and affix the private seal of office, the same date as above.

[SEAL.] (Signed) G. A. BRIANT.

I do hereby certify, that the preceding notice and statements signed by L. Bouligny, as the agent of the heirs of Bernard, and the thirteen documents thereto annexed, which are copies of the originals which were filed in the land office at Opelousas on the 24th January, 1837, and

which said originals were copied at length on the records of said land office; and I further certify, that said claim and said documents are the same in which a report was made and addressed to the Secretary of the Treasury, on the 15th of February, 1842, by the late register and receiver of the aforesaid land office; I further declare, that being at present at New Orleans, it is not in my power to annex to this certificate the official seal of the aforesaid land office.

New Orleans, La., November, 1845.

(Signed) P. HEBRARD, *Register*.

Depositions of St. Victor and others.

J. B. DAUTERIVE & als.
vs.
THE UNITED STATES.

Commissioner's office, U. S. district court, April 24th, 1847.

Upon this day, the plaintiffs, represented by their counsel, L. Janin, esq., and the defendants by the district attorney, appeared before me, the undersigned commissioner, to be present at the taking of depositions of certain witnesses in behalf of the plaintiffs, to be used in the trial of the above entitled cause.

Victor St. Victor, witness for the plaintiffs, being duly sworn, states, being shewn a document, marked A, which was the whole testimony offered, in 1837, in the land office at Opelousas, in support of the claim of the heirs of Dauterive to a tract of land in Attakapas, and in the said document being shewn further a paper on which there is an endorsement in the following words, "Vente de Masse à Mr. B. Dauterive, 16 May, 1765," and being also shewn the affidavit taken by himself on the 19th of January, 1837, before Edward Rawle, judge of the city court, states that he confirms in every respect the statement contained in said affidavit.

Cross examined.

States that he has not the least interest in the present suit. States that, having been engaged in banks, commerce, and commercial dealings, he has often had occasion to compare handwritings. Being asked if he has lately examined the document referred to in his affidavit, as existing in the archives of De Armas, notary public, answers that he has not. Has not examined it since the date of his affidavit in the year 1837, the 19th of January. States that whatever he certified to at that time he is certain was correct. Being asked whether the document, as above mentioned, was before his eyes at the time of his signing the affidavit, answers that he cannot recollect whether it was or not, but he is sure that whatever he then signed was correct.

(Signed) VR. ST. VICTOR.

John McDonough, witness for plaintiffs, being sworn, states, that he heard the Dauterive claim in the Attakapas spoken of under the Span-

ish government as a very large claim, said to contain two or three hundred thousand acres; such was the public report.

Witness knew Jean Baptiste Degruy; he died about six or seven years ago.

Cross examined.

States that he has no interest in the present suit. Witness settled in Louisiana in the year 1800, and, saving a short absence, he has resided in Louisiana ever since. Witness has never visited the Attakapas; he has heard De Clouet and Fuselier speak of the claim of Dauterive.

(Signed) JOHN McDONOGH.

John Moore, Attakapas, witness for plaintiffs, being duly sworn, states, that he was judge of the parish of St. Mary, in the Attakapas, for about seven years; has been member of Congress; has been living in the Attakapas *for* ever since the year 1804, and in Opelousas. Being shewn the concession contained in document A, already referred to, and also document B, which is a sketch of a number of townships in Attakapas, he recognises upon it the lake pass, bayou or rivière Tortue, and the bayou or river Vermillion. Witness does not know what is meant by the words prairie Vaseuse in the concession, except it be the Sea marsh; the greater part of the land lying immediately south of the junction of the bayou Tortue, and bayou Vermillion, is high rolling prairie, with the exception of some few sloughs or marais, until one reaches the Sea marsh. Witness has heard such a claim as Dauterive's spoken of very often, but until within fifteen or twenty years he has not known of its location. Witness knew Etienne Rocbert de la Moraudier; he died some few years *age;* witness cannot tell how many.

Cross examined.

States that he has no interest in the present suit; states that, when examined in chief concerning the boundaries of the Dauterive concession, his testimony was altogether drawn from the documents before him, marked B, and the concession contained in document marked A; witness states that he is well acquainted with that part of the country referred to in documents A and B.

Witness does not know whether or not Moraudier was connected with the Dauterive family; some of the Dauterives now live in the Attakapas; witness states that the reports concerning the Dauterive claim were confined to those who lived in the neighborhood of the claim; has heard the claim assigned in location to that part of the country between the lake Tasse and the Vermillion, on the bayou Tortue.

(Signed) JOHN MOORE.

Armand Pellerin, witness for plaintiffs, being duly sworn, states:

Being asked whether Barthelemy Loubry Pellerin was not his father, answers in the affirmative. He died in the month of October, 1845.

Cross examined.

States that he has no interest whatever in this suit; resides in New Orleans.

(Signed) ARMAND PELLERIN.

Charles Fagot, witness for plaintiffs, being sworn, states that he was born in the Attakapas; that he has heard the oldest inhabitants in that country speak of the Dauterive claim as a matter of general notoriety; he has heard his uncles, the Messieurs Berards, say that old Dauterive had a stock farm on the grant, and that there still remained wild cattle in a prairie, coming from that stock farm. This prairie, witness says, is called prairie Maronne; witness being shown the documents marked A and B, and having examined the same, says that he recognises the boundaries of the concession on the sketch marked B; states that what he considers the "Mauvais bois" lies at the junction of bayou Tortue and Vermillion; he never heard any one call it by that name, but he thinks the name is richly deserved. This "Mauvais bois" surrounds a small prairie known by the name of prairie Maronne; witness has heard his grandfather Berard say that this concession was on the prairie or bayou Vermillion; but witness never knew its precise locality until the year 1822 or 1823, when the Dauterives commenced a suit which affected the interests of witness.

Having read the concession contained in document A, witness states that he knows its locality perfectly well. The portion which is called in the concession prairie Vaseuse is now called in that country prairie Molle, or Soft prairie, and projects gradually into the sea. The whole southwestern coast of Louisiana has, on the sea shore, such soft or trembling prairies, that are wholly unfit for cultivation. (The declaration of the uncles of the witness, as above stated, is objected to by the district attorney as not proper testimony.)

Cross examined by district attorney.

States that he is not interested in this suit; has resided for the last two years in the city of Lafayette.

(Signed) CHS. FAGOT.

I, N. R. Jennings, commissioner to take testimony in land causes, do certify, that the foregoing are the true depositions of Victor St. Victor, John McDonough, John Moore, Armand Pellerin, and John Fagot, as taken down by me [in] writing, and subscribed to by each of said witnesses before me.

As witness my hand and seal, this 24th day of April, A. D. 1847.

(Signed) N. R. JENNINGS, [SEAL.]
Commissioner.

Deposition of H. B. Cenas and L. St. Martin.

District of Louisiana, June 16, 1847.

HEIRS OF DAUTERIVE } vs. THE UNITED STATES. }

According to notices duly issued, the plaintiffs in the above entitled

suit, represented by L. Janin, esq., and the defendants, represented by the United States district attorney, appeared before me, when the examination of witnesses in said cause was resumed.

HEIRS OF DAUTERIVE vs. THE UNITED STATES. } No. 63.

Louis St. Martin, witness for plaintiffs, being duly sworn, states that he is register of the land office at New Orleans, and has occupied that office since the 29th of August, 1846, and was clerk in the said office from March, 1839, to August, 1842; witness being shown a paper, marked 1, and being part of the document A, as marked by the commissioner on the 24th of April last, and purporting to be a copy of the grant to Dauterive and Masse, says that he has compared it with the book or record of French concessions, which is now in the land office, and finds it to be a correct copy. The book from which the copy above spoken of is taken is one of the original records in the land office. In the said office there are other records of Spanish concessions, but the book above referred to is the only bound book of French concessions; witness cannot tell how the said book came into the office; when he assumed the duties of the office he gave a receipt for it as the records of French patented concessions; witness has always known this record book to be treated and considered as a book of genuine records. He has seen put down in the reports of the successive boards of commissioners, which, since 1805, adjudicated upon land claims in this land district, that concessions recorded in this book were treated and considered as genuine concessions. The book referred to is entirely a record, containing no original signatures. The oldest concessions in said book are dated in 1753.

Cross examined by the D. Attorney.

States that he cannot tell how long a time the book referred to has been in the land office; there is nothing at all in the book to shew that fact. The documents in the volume, purporting to be copies of French grants, do not bear the signatures of the persons who copied them therein. There is nothing in these copies contained in the book which shews they are the copies from original documents, such as the words—"a true copy," or other words of similar import.

(Signed) L. ST. MARTIN.

H. B. Cenas, witness for plaintiffs, being duly sworn, states that he was register of the land office at New Orleans from the fall of 1829, and he resigned about the spring or summer of the year 1834.

Witness states that he has examined the book referred to in the testimony of Mr. St. Martin, the preceding witness, and he believes it to be the official register of the patented French and Spanish concessions, and in his official capacity he has had frequent occasion to consult and refer to the same, particularly whilst engaged in making up a report upon land claims according to the act of Congress in or about 1832. Wit-

ness and the receiver were, according to said act, constituted a board to examine claims, and he has always considered the book genuine and authentic, and never heard its character as such called in question. Witness states that upon several occasions original patented concessions were presented to him prior to his making a report upon the land claims, and almost in every instance he found a record of them contained in the book referred to, and such recording was always evidence to witness of the genuineness of the claim.

Cross examined by the D. Attorney.

Has no knowledge of the time when the book referred to came into the land office, nor is there any evidence in the book itself of the time when it came into the land office of the U. States.

(Signed) H. B. CENAS.

I, N. R. Jennings, duly appointed commissioner to take evidence in land causes, do hereby certify, that the foregoing are the true depositions of H. B. Cenas and Louis St. Martin; that the said depositions were read over to the witnesses, and respectively signed by them before me.

In witness whereof I hereunto set my hand and seal, this sixteenth day of June, A. D. 1847.

(Signed) N. R. JENNINGS, *Com'r.* [SEAL.]

Deposition of Amedée Ducatel and Edward Simon.

The Heirs of Dauterive } June 8, 1847.
vs.
The United States.

According to notices duly issued, the examination of witnesses in the above entitled cause was this day resumed.

L. Janin, esq., of counsel for the plaintiffs, and the defendants, represented by the district attorney, appearing:

Amedée Ducatel, witness for plaintiffs, being duly sworn, states:

Being shown an affidavit sworn to by him on the 7th of January, 1837, and which is embodied in the evidence filed in the land office at Opelousas, in support of the claims of the heirs of Bernard Dauterive, and having again examined the original document which is annexed to said affidavit, and which is copied at length in said affidavit, and having also examined the other paper referred to in said affidavit, to wit, a petition addressed by Andre Masse, in 1769, to Governor O'Reilly, and which is a part of the judicial proceedings in the matter of the intestado estate of Andre Masse, and is now produced before the commissioner and the district attorney, the witness now confirms all the statements made in his affidavit in 1837.

The record of the proceedings in the intestate estate of Andre Masse, before referred to, is a part of the notarial records now in the custody of Octave De Armas, notary public. Notaries public are not permitted by law to let such documents be withdrawn from their office. By the laws of Louisiana such documents prove themselves in courts of justice, and

require no proof of the handwritings which appear in them; no proof of the official handwriting.

Witness states that at the foot of the above mentioned petition of Andre Masse is an order of Governor O'Riley, of the 14th of February, 1770, granting the petitioner's demand, and also a certificate signed by Garie, notary, dated the 6th of March, 1770, declaring that the said document had been recorded.

No cross examination by the district attorney.

(Signed) AMEDEE DUCATEL.

Edward Simon, witness for plaintiffs, being sworn, states that he practised law from the year 1822 to 1840, when he was placed upon the supreme bench of the State of Louisiana, and remained such until the supreme court was abolished by the new constitution, to wit, on the 18th of March, 1846. During all this time St. Martinsville, in Attakapas, was the residence of witness. Witness is well acquainted with the inhabitants in that part of the country, and is familiar with the land titles, having had occasion to examine them professionally. Witness knew, or was acquainted with, Lamoraudier, Loubry, Pellerin, and A. Fuselier, and he knows that they are dead. They were old and respectable inhabitants of Attakapas and Opelousas.

From the examination of very many records witness has become acquainted with the handwriting of the Chevalier de Clouet, who was the commandant of Attakapas upwards of seventy years ago. The witness states that he has examined document No. 4, and which is a part of document A, so marked by the commissioner on the 24th of April last, is entirely in the handwriting of said De Clouet, and signed by him.

Witness having read the concession, which is No. 1 in document A, above referred to, states that the locality of the grant therein described corresponds with the representation of the grant marked B by the commissioner on the 24th of April last; witness states that he never heard of a vacherie belonging to Dauterive in that country; witness has heard of the claim intended to be set up by the Dauterive family to a large extent of country in the Attakapas. Having examined the document copied into the affidavit of Amedee Ducatel, witness says that the currency mentioned in it as "livres" is the common French currency of that period. Those livres tournois are about the value of a frank of the present French currency. Lands had but little value at that time in Attakapas, there being much land there.

Having examined document 4, in document A already referred to, witness says that the expression vacherie used in it means the land upon which the stock farm was kept; that is the general understanding or meaning attributed to that term.

Witness notices in the grant the condition that a vacherie is to be established thereon within the year, in default of which the grant is to revert to the Government. Witness states that most French and Spanish grants, so far as his knowledge and experience extends, contain the

condition that the land is to be settled either within one or three years, in default of which the grant is to be null. Witness has no knowledge of any instance in which a grant made by the Spanish or French government was annulled in consequence of these conditions not having been complied with; witness knows historically that many grants containing the above mentioned conditions were not settled until after the expiration of the period mentioned in the grant, and still the titles were maintained and held good; and he himself has defended a number of suits in which no such settlement could be proved at all, and the title was still maintained.

No cross examination by the district attorney.

(Signed) EDW. SIMON.

I, N. R. Jennings, commissioner to take testimony in land causes, do certify, that the foregoing are the true depositions of Edward Simon and Amedee Ducatel, witnesses on behalf of plaintiffs, who appeared before me this day by virtue of subpœnas duly issued: that the said depositions were read over to the said witnesses and by them subscribed in my presence.

In virtue whereof I hereunto affix my hand and seal, this 8th day of June, A. D. 1847.

[SEAL.] (Signed) N. R. JENNINGS, *Com'r.*

Deposition of A. Cruzat.

HEIRS OF DAUTERIVE vs. THE U. STATES. } Office of the commissioner, June 23, 1847.

According to notices duly issued, the plaintiffs in the above entitled cause, represented by L. Janin, esq., and the defendants, represented by the United States district attorney, appeared before me at the taking of testimony to be used on the trial of said cause.

Antoine Cruzat, for plaintiffs, being duly sworn, states that, under the Spanish government of Louisiana, he was an officer in the regiment of Louisiana, which was a regiment of the line established in the colony; some of the officers of the regiment were constantly employed in the offices of the governor; deponent himself acted as the private secretary of Governor Gayoso during the whole time of his being governor.

The land business of the colony was under the superintendence of the secretary of the governor; records were kept in the office of the secretary, in which the complete grants that were made were registered, and a memorandum was kept of the incomplete grants or orders of survey in separate books.

Deponent being shown a number of records, deposited in the land office of this city, purporting to be records of French and Spanish grants, he recognises them to be the identical records that were kept in the office of the secretary of the governor under the Spanish government; at the end of each of the said records is the signature of Manuel Gayoso de Lemos, the governor already mentioned.

Witness presumes that Governor Gayoso signed those records when he delivered them to the intendant, Morales, by order of the King of Spain.

Having examined some of the entries in the said records during the years 1796 and 1797, he recognises the handwritings of these entries; they are principally in the handwriting of Charles Tessier and John Mercier, who were the regular officers attached to the governor's secretary; some of these entries are in the handwriting of Saldivar, of Joseph Cruzat, the brother of deponent, and of the witness himself, who wrote occasionally in that office.

It is admitted that one of the records of which the witness speaks (and which record is now before the commissioner and the witness) is the same from which the concession to Dauterive and Masse, in evidence in this case, has been copied. Deponent has understood that the above mentioned records were transmitted to the American authorities at the cession of Louisiana.

Deponent states that Charles Tessier was for many years the parish judge of the parish of East Baton Rouge, and he still resides in the town of Baton Rouge. The other persons named by deponent are dead.

(Signed) A. CRUZAT.

I, N. R. Jennings, duly appointed commissioner to take testimony in land causes, do certify, that the foregoing is the true deposition of A. Cruzat; that the same was subscribed to by him before me, as witness my hand and seal, June 23d, 1847.

(Signed) N. R. JENNINGS, *Comm'r.*

And afterwards, to wit, on the tenth day of November, A. D. 1847, the following admission by the attorney of the U. S. was filed of record in the clerk's office:

Admission.

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It is admitted that Jean Baptiste Degruy, whose testimony, taken before J. Dugué, parish judge of the parish of Jefferson, on August 22d, 1836, has been offered in evidence in this suit, has been dead a considerable number of years.

New Orleans, Nov. 10th, 1847.

(Signed) THOMAS J. DURANT,
Att'y U. S. for dist. La.

And afterwards, to wit, on the twenty-first of December, A. D. 1847, the following entry was made of record:

Tuesday, Dec. 21st, 1847.—Present, Hon. T. H. McCaleb.

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This cause was to-day submitted to the court for its judgment thereon, upon briefs filed by the counsel for the respective parties—by Janin, esq., for the plaintiffs, and by the district attorney for the defendants.

And afterwards, to wit, on the thirteenth day of June, A. D. 1848, the following judgment was delivered by the court, and entered and filed of record, at the May term, 1848:

Judgment.

Tuesday, June 13th, 1848.—Present, Hon. Theo. H. McCaleb.

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District court U. S., for Louisiana, May term, 1848.

The court having taken this cause as above entitled under consideration, and having maturely considered the same, doth now, for reasons set forth at length and on file, order, adjudge, and decree, that the petitioners recover the land claimed in their petition, and described in the original grant or concession to them, as exhibited on pages 180 and 181 of the record of French grants; the same having been delivered at the cession of Louisiana to the Government of the United States, and deposited in the U. S. land office in the city of New Orleans.

And the court doth further order and decree, that the surveyor general of the State of Louisiana do survey the land so decreed to petitioners as aforesaid, and certify on the plats and certificates of survey all such parts of the said grant as may have been sold or otherwise disposed of by the United States.

And the court doth further order and decree, that the petitioners, or their heirs or legal representatives, shall have the right to enter the quantity of land that may be so certified to have been sold or otherwise disposed of by the United States, in any land office of the State of Louisiana, according to the provisions of the 11th section of the act of the 26th of May, 1824.

Judgment rendered June 13th, 1848. Judgment signed June 17th, 1848.

(Signed) THEO. H. McCALEB, [SEAL.]
U. S. Judge.

And afterwards, to wit, on the twenty-second day of June, A. D. 1848, the following order of appeal was entered of record on the minutes of the court, at the same May term, 1848.

Motion for appeal.

HEIRS OF DAUTERIVE } vs. THE UNITED STATES. }

In the district court of the United States for the district of Louisiana.

Present, the honorable Theodore H. McCaleb, judge.

May term, 1848.—Thursday, 22d June, 1848.

On motion of Thomas J. Durant, attorney of the United States for the district of Louisiana, it is ordered by the court that an appeal in this case be allowed to the Supreme Court of the United States at Washington, returnable to the next succeeding term thereof.

Office of the clerk of the United States district court for the district of Louisiana.

I, Needler R. Jennings, clerk of the above entitled court, do hereby certify, that the foregoing one hundred and three ½ folios, together with two plans between pages 64 and 65, (the first being a plan by Laveau Trudeau, the second being document marked B,) form a true, faithful, and correct transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain case in chancery, wherein the Heirs of Dauterive are plaintiffs, and the United States of America are defendants, No. 63 of the docket of land causes of the said court.

In testimony wherefore I have hereunto set my hand and caused to be affixed the seal of the said court, at the city of New Orleans, this 14th day of November, A. D. 1848, and of the independence of the United States of America the seventy-third year. [SEAL.]

N. R. JENNINGS, *Clerk.*

I, Theodore H. McCaleb, judge of the United States district court for the district of Louisiana, do hereby certify, that Needler R. Jennings, who subscribed the above certificate, is the clerk of the said court, and that faith and credit are due and ought to be given to his attestations as such, and that the above is in due form of law.

Given under my hand and seal, this 14th day of November, A. D. 1848.

THEO. H. McCALEB. [SEAL.]

Citation of appeal.

The United States of America, to J. B. Dauterive et als., greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to an order of appeal filed in the clerk's office of the district court of the United States for the dis-

trict of Louisiana, wherein the United States of America are appellants, and you are appellees, to show cause, if any there be, why the judgment rendered against the said appellants, and in your favor, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at New Orleans, this twelfth day of September, in the year of our Lord one thousand eight hundred and forty-eight.

THEO. H. McCALEB, *U. S. Judge.*

Marshal's return.

Received September 13th, 1848, and on the 22d inst. served a copy of the within on L. Janin, esq., in person, in the city of New Orleans. Returned October 20th, 1848.

J. PRADOS, Jr.,
Deputy U. S. Marshal.

Returned into court October 20th, 1848.

ROBERT M. LUSHER,
Dep. Clerk.

Filed 4 December, 1848.